

By the Committee on Health Care Standards & Regulatory  
Reform and Representative Jones

1                                   A bill to be entitled  
2           An act relating to regulation of professions;  
3           amending s. 455.225, F.S.; revising probable  
4           cause provisions and eliminating or revising  
5           obsolete references; amending s. 455.564, F.S.;  
6           authorizing the Department of Health and  
7           regulatory boards thereunder to refuse to issue  
8           an initial license under circumstances relating  
9           to ongoing investigations or prosecutions;  
10          providing for certain alternative continuing  
11          education credit; amending s. 455.565, F.S.;  
12          requiring certain applicants for restricted  
13          licensure as a physician to submit a set of  
14          fingerprints; amending s. 455.574, F.S.;  
15          providing the Department of Health rulemaking  
16          authority with respect to examinations;  
17          amending ss. 20.43, 120.80, 212.08, 215.37,  
18          240.215, 310.102, 337.162, 381.0039, 383.32,  
19          395.0193, 395.0197, 395.3025, 400.211, 400.491,  
20          400.518, 408.061, 408.704, 409.2598, 409.908,  
21          415.1055, 415.5055, 415.51, 440.13, 455.209,  
22          455.213, 455.218, 455.2285, 455.565, 455.5651,  
23          455.641, 455.651, 455.698, 455.717, 457.103,  
24          458.307, 458.311, 458.3115, 458.3124, 458.319,  
25          458.331, 458.343, 458.347, 459.004, 459.008,  
26          459.015, 459.019, 459.022, 460.4061, 460.407,  
27          461.007, 462.01, 463.002, 463.003, 463.016,  
28          464.004, 465.004, 465.006, 466.004, 466.007,  
29          466.018, 466.022, 466.028, 467.003, 468.1135,  
30          468.1145, 468.1185, 468.1295, 468.1665,  
31          468.1755, 468.1756, 468.205, 468.219, 468.364,

1 468.365, 468.402, 468.4315, 468.453, 468.456,  
2 468.4571, 468.506, 468.507, 468.513, 468.518,  
3 468.523, 468.526, 468.532, 468.535, 468.701,  
4 468.703, 468.707, 468.711, 468.719, 468.801,  
5 468.811, 469.009, 470.003, 470.036, 471.008,  
6 471.015, 471.033, 471.038, 472.015, 473.3035,  
7 473.308, 473.311, 473.323, 474.204, 474.214,  
8 474.2145, 475.021, 475.181, 475.25, 475.624,  
9 476.204, 477.029, 480.044, 481.2055, 481.213,  
10 481.225, 481.2251, 481.306, 481.311, 481.325,  
11 483.805, 483.807, 483.901, 484.002, 484.003,  
12 484.014, 484.042, 484.056, 486.023, 486.115,  
13 486.172, 489.129, 489.533, 490.004, 490.00515,  
14 490.009, 490.015, 491.004, 491.0047, 491.005,  
15 491.009, 491.015, 492.103, 492.113, 627.6407,  
16 627.6619, 627.668, 627.912, 636.039, 641.27,  
17 641.316, 641.55, 766.106, 766.305, 766.308,  
18 766.314, 817.505, 865.09, and 937.031, F.S. ;  
19 correcting references, cross references,  
20 definitions, and terminology relating to  
21 authority and jurisdiction of the Department of  
22 Health; amending ss. 215.20, 391.208, 391.217,  
23 400.5575, 408.20, and 641.60, F.S.; correcting  
24 cross references relating to the Health Care  
25 Trust Fund; amending ss. 39.01, 320.0848,  
26 322.125, 381.0031, 381.026, 381.0261, 381.0302,  
27 382.002, 395.0191, 395.0195, 395.1041, 395.301,  
28 404.22, 409.906, 415.1034, 415.503, 415.504,  
29 440.106, 440.13, 440.134, 440.15, 455.654,  
30 455.684, 455.691, 455.694, 455.697, 455.698,  
31 456.31, 456.32, 459.002, 460.403, 460.404,

1 460.405, 460.406, 460.408, 460.411, 460.412,  
2 460.413, 460.4166, 461.001, 461.002, 461.003,  
3 461.004, 461.006, 461.009, 461.012, 461.013,  
4 461.0134, 461.014, 461.015, 461.018, 462.01,  
5 464.003, 468.301, 468.302, 468.304, 468.307,  
6 468.314, 476.044, 477.0135, 483.901, 486.021,  
7 486.161, 621.03, 627.351, 627.357, 627.419,  
8 627.6482, 641.316, 641.425, 725.01, 766.101,  
9 766.102, 766.103, 766.105, 766.110, 766.1115,  
10 817.234, 893.02, 945.047, and 984.03, F.S. ;  
11 revising terminology relating to chiropractic  
12 and podiatric medicine; retitling chapters 460  
13 and 461, F.S., to conform; providing an  
14 effective date.  
15

16 Be It Enacted by the Legislature of the State of Florida:  
17

18 Section 1. Subsections (4) and (9) of section 455.225,  
19 Florida Statutes, are amended to read:

20 455.225 Disciplinary proceedings.--Disciplinary  
21 proceedings for each board shall be within the jurisdiction of  
22 the department.

23 (4) The determination as to whether probable cause  
24 exists shall be made by majority vote of a probable cause  
25 panel of the board, or by the department, as appropriate. Each  
26 regulatory board shall provide by rule that the determination  
27 of probable cause shall be made by a panel of its members or  
28 by the department. Each board may provide by rule for multiple  
29 probable cause panels composed of at least two members. Each  
30 board may provide by rule that one or more members of the  
31 panel or panels may be a former board member. The length of

1 term or repetition of service of any such former board member  
2 on a probable cause panel may vary according to the direction  
3 of the board when authorized by board rule. Any probable cause  
4 panel must include one of the board's former or present  
5 consumer members, if one is available, willing to serve, and  
6 is authorized to do so by the board chair. Any probable cause  
7 panel must include a present board member. Any probable cause  
8 panel must include a former or present professional board  
9 member. However, any former professional board member serving  
10 on the probable cause panel must hold an active valid license  
11 for that profession. All proceedings of the panel are exempt  
12 from s. 286.011 until 10 days after probable cause has been  
13 found to exist by the panel or until the subject of the  
14 investigation waives his or her privilege of confidentiality.  
15 The probable cause panel may make a reasonable request, and  
16 upon such request the department shall provide such additional  
17 investigative information as is necessary to the determination  
18 of probable cause. A request for additional investigative  
19 information shall be made within 15 days from the date of  
20 receipt by the probable cause panel of the investigative  
21 report of the department. The probable cause panel or the  
22 department, as may be appropriate, shall make its  
23 determination of probable cause within 30 days after receipt  
24 by it of the final investigative report of the department. The  
25 secretary may grant extensions of the 15-day and the 30-day  
26 time limits. In lieu of a finding of probable cause, the  
27 probable cause panel, or the department when there is no  
28 board, may issue a letter of guidance to the subject. If,  
29 within the 30-day time limit, as may be extended, the probable  
30 cause panel does not make a determination regarding the  
31 existence of probable cause or does not issue a letter of

1 guidance in lieu of a finding of probable cause, the  
2 department ~~agency~~, for disciplinary cases under its  
3 jurisdiction, must make a determination regarding the  
4 existence of probable cause within 10 days after the  
5 expiration of the time limit. In addition, if the probable  
6 cause panel finds no probable cause, the department may  
7 determine within 10 days thereafter that probable cause  
8 exists. If the probable cause panel finds that probable cause  
9 exists, it shall direct the department to file a formal  
10 complaint against the licensee. The department shall follow  
11 the directions of the probable cause panel regarding the  
12 filing of a formal complaint. If directed to do so, the  
13 department shall file a formal complaint against the subject  
14 of the investigation and prosecute that complaint pursuant to  
15 chapter 120. However, the department may decide not to  
16 prosecute the complaint if it finds that probable cause had  
17 been improvidently found by the panel. In such cases, the  
18 department shall refer the matter to the board. The board may  
19 then file a formal complaint and prosecute the complaint  
20 pursuant to chapter 120. The department shall also refer to  
21 the board any investigation or disciplinary proceeding not  
22 before the Division of Administrative Hearings pursuant to  
23 chapter 120 or otherwise completed by the department within 1  
24 year after the filing of a complaint. The department ~~agency~~,  
25 for disciplinary cases under its jurisdiction, must establish  
26 a uniform reporting system to quarterly refer to each board  
27 the status of any investigation or disciplinary proceeding  
28 that is not before the Division of Administrative Hearings or  
29 otherwise completed by the department ~~or agency~~ within 1 year  
30 after the filing of the complaint. ~~Annually, the agency, for~~  
31 ~~disciplinary cases under its jurisdiction if there is no~~

1 ~~board, or each board must establish a plan to reduce or~~  
2 ~~otherwise close any investigation or disciplinary proceeding~~  
3 ~~that is not before the Division of Administrative Hearings or~~  
4 ~~otherwise completed by the agency within 1 year after the~~  
5 ~~filing of the complaint. A probable cause panel or a board~~  
6 ~~may retain independent legal counsel, employ investigators,~~  
7 ~~and continue the investigation as it deems necessary; all~~  
8 ~~costs thereof shall be paid from the Professional Regulation~~  
9 ~~Trust Fund. All proceedings of the probable cause panel are~~  
10 ~~exempt from s. 120.525.~~

11 (9)~~(a)~~ The department shall periodically notify the  
12 person who filed the complaint of the status of the  
13 investigation, whether probable cause has been found, and the  
14 status of any civil action or administrative proceeding or  
15 appeal.

16 ~~(b) In any disciplinary case under the jurisdiction of~~  
17 ~~the Agency for Health Care Administration for which probable~~  
18 ~~cause has been found, the Agency for Health Care~~  
19 ~~Administration shall provide to the person who filed the~~  
20 ~~complaint a copy of the administrative complaint, including:~~

21 1. ~~A written explanation of how an administrative~~  
22 ~~complaint is resolved by the disciplinary process.~~

23 2. ~~A written explanation of how and when the person~~  
24 ~~may participate in the disciplinary process.~~

25 3. ~~A written notice of any hearing before the Division~~  
26 ~~of Administrative Hearings or the regulatory board at which~~  
27 ~~final agency action is taken.~~

28 ~~(c) In any disciplinary case for which probable cause~~  
29 ~~is not found, the Agency for Health Care Administration shall~~  
30 ~~so inform the person who filed the complaint and notify that~~  
31 ~~person that he or she may, within 60 days, provide any~~

1 ~~additional information to the probable cause panel which may~~  
2 ~~be relevant to the decision. In any administrative proceeding~~  
3 ~~under s. 120.57, the person who filed the disciplinary~~  
4 ~~complaint shall have the right to present oral or written~~  
5 ~~communication relating to the alleged disciplinary violations~~  
6 ~~or to the appropriate penalty.~~

7 Section 2. Subsections (1) and (5) of section 455.564,  
8 Florida Statutes, are amended, present subsections (3) through  
9 (10) are renumbered as subsections (4) through (11),  
10 respectively, and a new subsection (3) is added to said  
11 section, to read:

12 455.564 Department; general licensing provisions.--

13 (1) Any person desiring to be licensed in a profession  
14 within the jurisdiction of the department shall apply to the  
15 department in writing to take the licensure examination. The  
16 application shall be made on a form prepared and furnished by  
17 the department and shall require the social security number of  
18 the applicant. The form shall be supplemented as needed to  
19 reflect any material change in any circumstance or condition  
20 stated in the application which takes place between the  
21 initial filing of the application and the final grant or  
22 denial of the license and which might affect the decision of  
23 the department. In order to further the economic development  
24 goals of the state, and notwithstanding any law to the  
25 contrary, the department ~~agency~~ may enter into an agreement  
26 with the county tax collector for the purpose of appointing  
27 the county tax collector as the department's ~~agency's~~ agent to  
28 accept applications for licenses and applications for renewals  
29 of licenses. The agreement must specify the time within which  
30 the tax collector must forward any applications and  
31 accompanying application fees to the department ~~agency~~.

1           (3) The board, or the department when there is no  
2 board, may refuse to issue an initial license to any applicant  
3 who is under investigation or prosecution in any jurisdiction  
4 for an action that would constitute a violation of this part  
5 or the professional practice acts administered by the  
6 department and the boards, until such time as the  
7 investigation or prosecution is complete.

8           ~~(6)(5)~~ As a condition of renewal of a license, the  
9 Board of Medicine, the Board of Osteopathic Medicine, the  
10 Board of Chiropractic Medicine, and the Board of Podiatric  
11 Medicine shall each require licensees which they respectively  
12 regulate to periodically demonstrate their professional  
13 competency by completing at least 40 hours of continuing  
14 education every 2 years, which may include up to 1 hour of  
15 risk management or cost containment and up to 2 hours of other  
16 topics related to the applicable medical specialty, if  
17 required by board rule. Each of such boards shall determine  
18 whether any specific course requirements not otherwise  
19 mandated by law shall be mandated and shall approve criteria  
20 for, and the content of, any course mandated by such board.  
21 Notwithstanding any other provision of law, the board, or the  
22 department when there is no board, may approve by rule  
23 alternative methods of obtaining risk management continuing  
24 education credits, including personal attendance at a board  
25 meeting in which a licensee is disciplined, service as a  
26 volunteer expert witness for the department in licensure  
27 disciplinary cases, and service as a probable cause panel  
28 member following the expiration of a board member's term.

29           Section 3. Paragraph (a) of subsection (4) of section  
30 455.565, Florida Statutes, is amended to read:

31



1           455.565 Designated healthcare professionals;  
2 information required for licensure.--

3           (4)(a) An applicant for initial licensure must submit  
4 a set of fingerprints to the Department of Health in  
5 accordance with s. 458.311, s. 458.3115, s. 458.3124,  
6 458.313, s. 459.0055, s. 460.406, or s. 461.006.

7           Section 4. Subsection (1) of section 455.574, Florida  
8 Statutes, is amended to read:

9           455.574 Department of Health; examinations.--

10          (1)(a) The department shall provide, contract, or  
11 approve services for the development, preparation,  
12 administration, scoring, score reporting, and evaluation of  
13 all examinations, in consultation with the appropriate board.  
14 The department shall certify that examinations developed and  
15 approved by the department adequately and reliably measure an  
16 applicant's ability to practice the profession regulated by  
17 the department. After an examination developed or approved by  
18 the department has been administered, the board, or the  
19 department when there is no board, may reject any question  
20 which does not reliably measure the general areas of  
21 competency specified in the rules of the board. The  
22 department may contract for the preparation, administration,  
23 scoring, score reporting, and evaluation of examinations, when  
24 such services are available and approved by the board.

25          (b) For each examination developed by the department  
26 or contracted vendor, to the extent not otherwise specified by  
27 statute, the board, or the department when there is no board,  
28 shall by rule specify the general areas of competency to be  
29 covered by each examination, the relative weight to be  
30 assigned in grading each area tested, and the score necessary  
31 to achieve a passing grade, and fees, where applicable, to

1 cover the actual cost for any purchase, development, and  
2 administration of required examinations. This subsection does  
3 not apply to national examinations approved and administered  
4 pursuant to paragraph (c). If a practical examination is  
5 deemed to be necessary, the rules shall specify the criteria  
6 by which examiners are to be selected, the grading criteria to  
7 be used by the examiner, the relative weight to be assigned in  
8 grading each criterion, and the score necessary to achieve a  
9 passing grade. When a mandatory standardization exercise for a  
10 practical examination is required by law, the board, or the  
11 department when there is no board, may conduct such exercise.  
12 Therefore, board members, or employees of the department when  
13 there is no board, may serve as examiners at a practical  
14 examination with the consent of the board or department, as  
15 appropriate.

16 (c) The board, or the department when there is no  
17 board, may approve by rule the use of any national examination  
18 which the department has certified as meeting requirements of  
19 national examinations and generally accepted testing standards  
20 pursuant to department rules. Providers of examinations  
21 seeking certification by the department shall pay the actual  
22 costs incurred by the department in making a determination  
23 regarding the certification. The name and number of a  
24 candidate may be provided to a national contractor for the  
25 limited purpose of preparing the grade tape and information to  
26 be returned to the board or department; or, to the extent  
27 otherwise specified by rule, the candidate may apply directly  
28 to the vendor of the national examination and supply test  
29 score information to the department. The department may  
30 delegate to the board the duty to provide and administer the  
31 examination. Any national examination approved by a board, or

1 the department when there is no board, prior to October 1,  
2 1997, is deemed certified under this paragraph.

3 (d) Each board, or the department when there is no  
4 board, shall adopt rules regarding the security and monitoring  
5 of examinations. The department shall implement those rules  
6 adopted by the respective boards. In order to maintain the  
7 security of examinations, the department may employ the  
8 procedures set forth in s. 455.637 to seek fines and  
9 injunctive relief against an examinee who violates the  
10 provisions of s. 455.577 or the rules adopted pursuant to this  
11 paragraph. The department, or any agent thereof, may, for the  
12 purposes of investigation, confiscate any written,  
13 photographic, or recording material or device in the  
14 possession of the examinee at the examination site which the  
15 department deems necessary to enforce such provisions or  
16 rules.

17 (e) If the professional board with jurisdiction over  
18 an examination concurs, the department may, for a fee, share  
19 with any other state's licensing authority an examination  
20 developed by or for the department unless prohibited by a  
21 contract entered into by the department for development or  
22 purchase of the examination. The department, with the  
23 concurrence of the appropriate board, shall establish  
24 guidelines that ensure security of a shared exam and shall  
25 require that any other state's licensing authority comply with  
26 those guidelines. Those guidelines shall be approved by the  
27 appropriate professional board. All fees paid by the user  
28 shall be applied to the department's examination and  
29 development program for professions regulated by this part.

30  
31

1 The department may adopt rules necessary to implement this  
2 subsection.

3 Section 5. Paragraph (g) of subsection (3) of section  
4 20.43, Florida Statutes, is amended to read:

5 20.43 Department of Health.--There is created a  
6 Department of Health.

7 (3) The following divisions of the Department of  
8 Health are established:

9 (g) Division of Medical Quality Assurance, which is  
10 responsible for the following boards and professions  
11 established within the division:

12 1. Nursing assistants, as provided under s. 400.211.

13 2. Health care services pools, as provided under s.  
14 402.48.

15 3. The Board of Acupuncture, created under chapter  
16 457.

17 4. The Board of Medicine, created under chapter 458.

18 5. The Board of Osteopathic Medicine, created under  
19 chapter 459.

20 6. The Board of Chiropractic Medicine, created under  
21 chapter 460.

22 7. The Board of Podiatric Medicine, created under  
23 chapter 461.

24 8. Naturopathy, as provided under chapter 462.

25 9. The Board of Optometry, created under chapter 463.

26 10. The Board of Nursing, created under chapter 464.

27 11. The Board of Pharmacy, created under chapter 465.

28 12. The Board of Dentistry, created under chapter 466.

29 13. Midwifery, as provided under chapter 467.

30 14. The Board of Speech-Language Pathology and

31 Audiology, created under part I of chapter 468.

- 1           15. The Board of Nursing Home Administrators, created  
2 under part II of chapter 468.
- 3           16. Occupational therapy, as provided under part III  
4 of chapter 468.
- 5           17. Respiratory therapy, as provided under part V of  
6 chapter 468.
- 7           18. Dietetics and nutrition practice, as provided  
8 under part X of chapter 468.
- 9           19. Athletic trainers, as provided under part XIII ~~XIV~~  
10 of chapter 468.
- 11          20. Electrolysis, as provided under chapter 478.
- 12          21. The Board of Massage Therapy, created under  
13 chapter 480.
- 14          22. The Board of Clinical Laboratory Personnel,  
15 created under part III of chapter 483.
- 16          23. Medical physicists, as provided under part IV of  
17 chapter 483.
- 18          24. The Board of Opticianry, created under part I of  
19 chapter 484.
- 20          25. The Board of Hearing Aid Specialists, created  
21 under part II of chapter 484.
- 22          26. The Board of Physical Therapy Practice, created  
23 under chapter 486.
- 24          27. The Board of Psychology, created under chapter  
25 490.
- 26          28. The Board of Clinical Social Work, Marriage and  
27 Family Therapy, and Mental Health Counseling, created under  
28 chapter 491.
- 29
- 30 The department may contract with the Agency for Health Care  
31 Administration who shall provide consumer complaint,

1 investigative, and prosecutorial services required by the  
2 Division of Medical Quality Assurance, councils, or boards, as  
3 appropriate.

4 Section 6. Paragraph (b) of subsection (4) of section  
5 120.80, Florida Statutes, is amended, and subsection (15) is  
6 added to said section, to read:

7 120.80 Exceptions and special requirements;  
8 agencies.--

9 (4) DEPARTMENT OF BUSINESS AND PROFESSIONAL  
10 REGULATION.--

11 (b) Professional regulation.--Notwithstanding s.  
12 120.57(1)(a), formal hearings may not be conducted by the  
13 Secretary of Business and Professional Regulation, ~~the~~  
14 ~~director of the Agency for Health Care Administration,~~ or a  
15 board or member of a board within the Department of Business  
16 and Professional Regulation ~~or the Agency for Health Care~~  
17 ~~Administration~~ for matters relating to the regulation of  
18 professions, as defined by part I of chapter 455.

19 (15) DEPARTMENT OF HEALTH.--Notwithstanding s.  
20 120.57(1)(a), formal hearings may not be conducted by the  
21 Secretary of Health, the director of the Agency for Health  
22 Care Administration, or a board or member of a board within  
23 the Department of Health or the Agency for Health Care  
24 Administration for matters relating to the regulation of  
25 health care practitioners, as defined by part II of chapter  
26 455.

27 Section 7. Paragraph (o)2.d. of subsection (7) of  
28 section 212.08, Florida Statutes, is amended to read:

29 212.08 Sales, rental, use, consumption, distribution,  
30 and storage tax; specified exemptions.--The sale at retail,  
31 the rental, the use, the consumption, the distribution, and

1 the storage to be used or consumed in this state of the  
2 following are hereby specifically exempt from the tax imposed  
3 by this chapter.

4 (7) MISCELLANEOUS EXEMPTIONS.--

5 (o) Religious, charitable, scientific, educational,  
6 and veterans' institutions and organizations.--

7 2. The provisions of this section authorizing  
8 exemptions from tax shall be strictly defined, limited, and  
9 applied in each category as follows:

10 d. "Educational institutions" means state  
11 tax-supported or parochial, church and nonprofit private  
12 schools, colleges, or universities which conduct regular  
13 classes and courses of study required for accreditation by, or  
14 membership in, the Southern Association of Colleges and  
15 Schools, the Department of Education, the Florida Council of  
16 Independent Schools, or the Florida Association of Christian  
17 Colleges and Schools, Inc., or nonprofit private schools which  
18 conduct regular classes and courses of study accepted for  
19 continuing education credit by a Board of the Division of  
20 Medical Quality Assurance of the Department of Health Business  
21 ~~and Professional Regulation~~ or which conduct regular classes  
22 and courses of study accepted for continuing education credit  
23 by the American Medical Association. Nonprofit libraries, art  
24 galleries, performing arts centers that provide educational  
25 programs to school children, which programs involve  
26 performances or other educational activities at the performing  
27 arts center and serve a minimum of 50,000 school children a  
28 year, and museums open to the public are defined as  
29 educational institutions and are eligible for exemption. The  
30 term "educational institutions" includes private nonprofit  
31 organizations the purpose of which is to raise funds for

1 schools teaching grades kindergarten through high school,  
2 colleges, and universities. The term "educational  
3 institutions" includes any nonprofit newspaper of free or paid  
4 circulation primarily on university or college campuses which  
5 holds a current exemption from federal income tax under s.  
6 501(c)(3) of the Internal Revenue Code, and any educational  
7 television or radio network or system established pursuant to  
8 s. 229.805 or s. 229.8051 and any nonprofit television or  
9 radio station which is a part of such network or system and  
10 which holds a current exemption from federal income tax under  
11 s. 501(c)(3) of the Internal Revenue Code. The term  
12 "educational institutions" also includes state, district, or  
13 other governing or administrative offices the function of  
14 which is to assist or regulate the customary activities of  
15 educational organizations or members. The term "educational  
16 institutions" also includes a nonprofit educational cable  
17 consortium which holds a current exemption from federal income  
18 tax under s. 501(c)(3) of the Internal Revenue Code of 1986,  
19 as amended, whose primary purpose is the delivery of  
20 educational and instructional cable television programming and  
21 whose members are composed exclusively of educational  
22 organizations which hold a valid consumer certificate of  
23 exemption and which are either an educational institution as  
24 defined in this sub-subparagraph, or qualified as a nonprofit  
25 organization pursuant to s. 501(c)(3) of the Internal Revenue  
26 Code of 1986, as amended.

27 Section 8. Subsections (1), (2), and (4) of section  
28 215.37, Florida Statutes, are amended to read:

29 215.37 Department of Business and Professional  
30 Regulation and the boards to be financed from fees collected;  
31



1 moneys deposited in trust fund; service charge imposed and  
2 deposited into the General Revenue Fund; appropriation.--

3 (1) All fees, licenses, and other charges assessed to  
4 practitioners of professions, as defined in part I of chapter  
5 455, by the Department of Business and Professional Regulation  
6 or a board within the department shall be collected by the  
7 department and shall be deposited in the State Treasury into  
8 the Professional Regulation Trust Fund to the credit of the  
9 department.

10 (2) The regulation by the department of professions,  
11 as defined in part I of chapter 455, shall be financed solely  
12 from revenue collected by it from fees and other charges and  
13 deposited in the Professional Regulation Trust Fund, and all  
14 such revenue is hereby appropriated to the department.  
15 However, it is legislative intent that each profession shall  
16 operate within its anticipated fees.

17 (4) The department shall submit a balanced legislative  
18 budget for its regulation of professions, as defined in part I  
19 of chapter 455, by division and operating budgets as required  
20 of all governmental subdivisions in chapters 215 and 216, to  
21 be based upon anticipated revenues. Prior to development of  
22 the department's budget request to the Legislature, the  
23 department shall request that each board submit its proposed  
24 budget for the operation of the board, the board's office, and  
25 other activities or expanded programs of the board for  
26 possible inclusion in the department's budget request. Prior  
27 to submission of the department's budget request to the  
28 Legislature, each board, at a regularly scheduled board  
29 meeting, shall review the proposed request related to its  
30 regulation of a profession, as defined in part I of chapter  
31 455, and either approve the proposed request or submit to the

1 secretary written exceptions to the department's proposed  
2 budget. Any board making such exceptions must specify its  
3 objections, the reasons for such exceptions, and proposed  
4 alternatives to the department's request. The secretary shall  
5 consider all exceptions. When a majority of boards agree on an  
6 exception, the secretary shall make adjustments to the  
7 department's budget request related to its regulation of  
8 professions, as defined in part I of chapter 455, to reflect  
9 the majority position. If appropriate, the secretary shall  
10 file an exception on behalf of the department. The secretary  
11 shall submit to the Legislature the department's amended  
12 budget request along with any unresolved exceptions.

13 Section 9. Subsection (3) of section 240.215, Florida  
14 Statutes, is amended to read:

15 240.215 Payment of costs of civil action against  
16 employees or members of the Board of Regents.--

17 (3) All faculty physicians employed by the Board of  
18 Regents who are subject to the requirements of s. 455.564  
19 ~~455.2141~~ shall complete their risk management continuing  
20 education on issues specific to academic medicine. Such  
21 continuing education shall include instruction for the  
22 supervision of resident physicians as required by the  
23 Accreditation Council for Graduate Medical Education. The  
24 boards described in s. 455.564 ~~455.2141~~ shall adopt rules to  
25 implement the provisions of this subsection.

26 Section 10. Subsections (1) and (2) and paragraphs (a)  
27 and (c) of subsection (3) of section 310.102, Florida  
28 Statutes, are amended to read:

29 310.102 Treatment programs for impaired pilots and  
30 deputy pilots.--

31

1           (1) The department shall, by rule, designate approved  
2 treatment programs for pilots and deputy pilots under this  
3 section. The department may adopt rules setting forth  
4 appropriate criteria for approval of treatment providers based  
5 on the policies and guidelines established by the Impaired  
6 Practitioners Committee under s. 455.704.

7           (2) The department shall retain one or more impaired  
8 practitioner consultants as recommended by the committee. A  
9 consultant shall be a licensee under the jurisdiction of the  
10 Division of Medical Quality Assurance within the Department of  
11 Health, and at least one consultant must be a practitioner  
12 licensed under chapter 458, chapter 459, or chapter 464. The  
13 consultant shall assist the probable cause panel and  
14 department in carrying out the responsibilities of this  
15 section. This shall include working with department  
16 investigators to determine whether a pilot or deputy pilot is,  
17 in fact, impaired.

18           (3)(a) Whenever the department receives a written or  
19 oral legally sufficient complaint alleging that a pilot or  
20 deputy pilot licensed or certificated by the department is  
21 impaired as a result of the misuse or abuse of alcohol or  
22 drugs, or both, or due to a mental or physical condition which  
23 could affect the pilot's or deputy pilot's ability to practice  
24 with skill and safety, and no complaint against the pilot or  
25 deputy pilot other than impairment exists, the reporting of  
26 such information shall not constitute a complaint within the  
27 meaning of s. 455.225 ~~455.255~~ if the probable cause panel  
28 finds:

29           1. The pilot or deputy pilot has acknowledged the  
30 impairment problem.

31

1           2. The pilot or deputy pilot has voluntarily enrolled  
2 in an appropriate, approved treatment program.

3           3. The pilot or deputy pilot has voluntarily withdrawn  
4 from piloting or limited the scope of piloting as determined  
5 by the panel, in each case, until such time as the panel is  
6 satisfied the pilot or deputy pilot has successfully completed  
7 an approved treatment program.

8           4. The pilot or deputy pilot has executed releases for  
9 medical records, authorizing the release of all records of  
10 evaluations, diagnoses, and treatment of the pilot or deputy  
11 pilot, including records of treatment for emotional or mental  
12 conditions, to the consultant. The consultant shall make no  
13 copies or reports of records that do not regard the issue of  
14 the pilot's or deputy pilot's impairment and his or her  
15 participation in a treatment program.

16           (c) Inquiries related to impairment treatment programs  
17 designed to provide information to the pilot or deputy pilot  
18 and others and which do not indicate that the pilot or deputy  
19 pilot presents a danger to the public shall not constitute a  
20 complaint within the meaning of s. 455.225 ~~455.255~~ and shall  
21 be exempt from the provisions of this subsection.

22           Section 11. Subsections (2) and (3) of section  
23 337.162, Florida Statutes, are amended to read:

24           337.162 Professional services.--Professional services  
25 provided to the department that fall below acceptable  
26 professional standards may result in transportation project  
27 delays, overruns, and reduced facility life. To minimize these  
28 effects and ensure that quality services are received, the  
29 Legislature hereby declares that licensed professionals shall  
30 be held accountable for the quality of the services they  
31 provide to the department.

1           (2) Any person who is employed by the department and  
2 who is licensed by the Department of Business and Professional  
3 Regulation and who, through the course of his or her  
4 employment, has knowledge or reason to believe that any person  
5 has violated the provisions of state professional licensing  
6 laws or rules shall submit a complaint about the violations to  
7 the Department of Business and Professional Regulation.  
8 Failure to submit a complaint about the violations may be  
9 grounds for disciplinary action pursuant to part I of chapter  
10 455 and the state licensing law applicable to that licensee.  
11 The complaint submitted to the Department of Business and  
12 Professional Regulation and maintained by the department is  
13 confidential and exempt from s. 119.07(1).

14           (3) Any complaints submitted to the Department of  
15 Business and Professional Regulation pursuant to subsections  
16 (1) and (2) are confidential and exempt from s. 119.07(1)  
17 pursuant to part I of chapter 455 and applicable state law.

18           Section 12. Section 381.0039, Florida Statutes, is  
19 amended to read:

20           381.0039 Oversight of acquired immune deficiency  
21 syndrome education programs.--The Department of Education, the  
22 Department of Health, and the Department of Business and  
23 Professional Regulation are directed to establish an  
24 interagency agreement to oversee the quality and cost  
25 efficiency of acquired immune deficiency syndrome education  
26 programs being administered in the state pursuant to chapters  
27 381, ~~455, 943~~, and 945 and part II of chapter 455. The  
28 interagency agreement shall also include development, where  
29 appropriate, of methods for coordinating educational programs  
30 for various professional groups.

31

1           Section 13. Subsection (3) of section 383.32, Florida  
2 Statutes, is amended to read:

3           383.32 Clinical records.--

4           (3) Clinical records shall be kept confidential in  
5 accordance with s. 455.667 ~~455.241~~ and exempt from the  
6 provisions of s. 119.07(1). A client's clinical records shall  
7 be open to inspection only under the following conditions:

8           (a) A consent to release information has been signed  
9 by the client; or

10          (b) The review is made by the department for a  
11 licensure survey or complaint investigation.

12           Section 14. Subsections (1) and (4) of section  
13 395.0193, Florida Statutes, are amended to read:

14           395.0193 Licensed facilities; peer review;  
15 disciplinary powers; agency or partnership with physicians.--

16           (1) It is the intent of the Legislature that good  
17 faith participants in the process of investigating and  
18 disciplining physicians pursuant to the state-mandated peer  
19 review process shall, in addition to receiving immunity from  
20 retaliatory tort suits pursuant to s. 455.621~~455.225~~(12), be  
21 protected from federal antitrust suits filed under the Sherman  
22 Anti-Trust Act, 15 U.S.C.A. ss. 1 et seq. Such intent is  
23 within the public policy of the state to secure the provision  
24 of quality medical services to the public.

25           (4) All final disciplinary actions taken under  
26 subsection (3) shall be reported within 10 working days to the  
27 Division of Health Quality Assurance of the agency in writing  
28 and shall specify the disciplinary action taken and the  
29 specific grounds therefor. The division shall review each  
30 report and determine whether it potentially involved conduct  
31 by the licensee that is subject to disciplinary action, in

1 | which case s. 455.621 ~~455.225~~ shall apply. The report shall  
2 | not be subject to inspection under s. 119.07(1) even if the  
3 | division's investigation results in a finding of probable  
4 | cause.

5 |         Section 15. Paragraph (b) of subsection (5) and  
6 | subsections (6) and (11) of section 395.0197, Florida  
7 | Statutes, are amended to read:

8 |             395.0197 Internal risk management program.--

9 |             (5)

10 |            (b) The information reported to the agency pursuant to  
11 | paragraph (a) which relates to persons licensed under chapter  
12 | 458, chapter 459, chapter 461, or chapter 466 shall be  
13 | reviewed by the agency. The agency shall determine whether  
14 | any of the incidents potentially involved conduct by a health  
15 | care professional who is subject to disciplinary action, in  
16 | which case the provisions of s. 455.621 ~~455.225~~ shall apply.

17 |            (6) If an adverse or untoward incident, whether  
18 | occurring in the licensed facility or arising from health care  
19 | prior to admission in the licensed facility, results in:

20 |            (a) The death of a patient;

21 |            (b) Brain or spinal damage to a patient;

22 |            (c) The performance of a surgical procedure on the  
23 | wrong patient; or

24 |            (d) A surgical procedure unrelated to the patient's  
25 | diagnosis or medical needs being performed on any patient,  
26 | including the surgical repair of injuries or damage resulting  
27 | from the planned surgical procedure, wrong site or wrong  
28 | procedure surgeries, and procedures to remove foreign objects  
29 | remaining from surgical procedures,

30 |  
31 |

1 the licensed facility shall report this incident to the agency  
2 within 15 calendar days after its occurrence. The agency may  
3 require an additional, final report. These reports shall not  
4 be available to the public pursuant to s. 119.07(1) or any  
5 other law providing access to public records, nor be  
6 discoverable or admissible in any civil or administrative  
7 action, except in disciplinary proceedings by the agency or  
8 the appropriate regulatory board, nor shall they be available  
9 to the public as part of the record of investigation for and  
10 prosecution in disciplinary proceedings made available to the  
11 public by the agency or the appropriate regulatory board.  
12 However, the agency or the appropriate regulatory board shall  
13 make available, upon written request by a health care  
14 professional against whom probable cause has been found, any  
15 such records which form the basis of the determination of  
16 probable cause. The agency may investigate, as it deems  
17 appropriate, any such incident and prescribe measures that  
18 must or may be taken in response to the incident. The agency  
19 shall review each incident and determine whether it  
20 potentially involved conduct by the health care professional  
21 who is subject to disciplinary action, in which case the  
22 provisions of s. 455.621 ~~455.225~~ shall apply.

23 (11) The agency shall have access to all licensed  
24 facility records necessary to carry out the provisions of this  
25 section. The records obtained are not available to the public  
26 under s. 119.07(1), nor shall they be discoverable or  
27 admissible in any civil or administrative action, except in  
28 disciplinary proceedings by the agency or the appropriate  
29 regulatory board, nor shall records obtained pursuant to s.  
30 455.611 ~~455.223~~ be available to the public as part of the  
31 record of investigation for and prosecution in disciplinary



1 proceedings made available to the public by the agency or the  
2 appropriate regulatory board. However, the agency or the  
3 appropriate regulatory board shall make available, upon  
4 written request by a health care professional against whom  
5 probable cause has been found, any such records which form the  
6 basis of the determination of probable cause, except that,  
7 with respect to medical review committee records, s. 766.101  
8 controls.

9 Section 16. Paragraph (e) of subsection (4) of section  
10 395.3025, Florida Statutes, is amended to read:

11 395.3025 Patient and personnel records; copies;  
12 examination.--

13 (4) Patient records are confidential and must not be  
14 disclosed without the consent of the person to whom they  
15 pertain, but appropriate disclosure may be made without such  
16 consent to:

17 (e) The agency upon subpoena issued pursuant to s.  
18 455.611 ~~455.223~~, but the records obtained thereby must be used  
19 solely for the purpose of the agency and the appropriate  
20 professional board in its investigation, prosecution, and  
21 appeal of disciplinary proceedings. If the agency requests  
22 copies of the records, the facility shall charge no more than  
23 its actual copying costs, including reasonable staff time. The  
24 records must be sealed and must not be available to the public  
25 pursuant to s. 119.07(1) or any other statute providing access  
26 to records, nor may they be available to the public as part of  
27 the record of investigation for and prosecution in  
28 disciplinary proceedings made available to the public by the  
29 agency or the appropriate regulatory board. However, the  
30 agency must make available, upon written request by a  
31 practitioner against whom probable cause has been found, any

1 such records that form the basis of the determination of  
2 probable cause.

3 Section 17. Subsections (1) and (8) of section  
4 400.211, Florida Statutes, are amended to read:

5 400.211 Persons employed as nursing assistants;  
6 certification requirement.--

7 (1) A person must be certified pursuant to this  
8 section, except a registered nurse or practical nurse licensed  
9 in accordance with the provisions of chapter 464 or an  
10 applicant for such licensure who is permitted to practice  
11 nursing in accordance with rules promulgated by the Board of  
12 Nursing pursuant to chapter 464, to serve as a nursing  
13 assistant in any nursing home. The Department of Health  
14 ~~Business and Professional Regulation~~ shall issue a certificate  
15 to any person who:

16 (a) Has successfully completed a nursing assistant  
17 program in a state-approved school and has achieved a minimum  
18 score of 75 percent on the written portion of the Florida  
19 Nursing Assistant Certification Test approved by the  
20 Department of Health ~~Business and Professional Regulation~~ and  
21 administered by state-approved test site personnel;

22 (b) Has achieved a minimum score of 75 percent on the  
23 written and performance portions of the Florida Nursing  
24 Assistant Certification Test approved by the Department of  
25 Health ~~Business and Professional Regulation~~ and administered  
26 by state-approved test site personnel; or

27 (c) Is currently certified in another state, is on  
28 that state's registry, has no findings of abuse, and has  
29 achieved a minimum score of 75 percent on the written portion  
30 of the Florida Nursing Assistant Certification Test approved  
31 by the Department of Health ~~Business and Professional~~

1 ~~Regulation~~ and administered by state-approved test site  
2 personnel.

3

4 An oral examination shall be administered upon request.

5 (8) The Department of Health ~~Business and Professional~~  
6 ~~Regulation~~ may adopt such rules as are necessary to carry out  
7 this section.

8 Section 18. Section 400.491, Florida Statutes, is  
9 amended to read:

10 400.491 Clinical records.--The home health agency must  
11 maintain for each patient a clinical record that includes the  
12 services the home health agency provides directly and those  
13 provided through arrangement with another health care  
14 provider, except for those services provided by persons  
15 referred under s. 400.509. Such records must contain  
16 pertinent past and current medical, nursing, social and other  
17 therapeutic information, the plan of treatment, and other such  
18 information as is necessary for the safe and adequate care of  
19 the patient. When home health services are terminated, the  
20 record must show the date and reason for termination. Such  
21 records are considered patient records under s. 455.667  
22 ~~400.241~~, and must be maintained by the home health agency for  
23 5 years following termination of services. If a patient  
24 transfers to another home health agency, a copy of his or her  
25 record must be provided to the other home health agency upon  
26 request.

27 Section 19. Subsection (1) of section 400.518, Florida  
28 Statutes, is amended to read:

29 400.518 Prohibited referrals to home health  
30 agencies.--

31

1           (1) A physician licensed under chapter 458 or chapter  
2 459 must comply with s. 455.654 ~~455.236~~.

3           Section 20. Subsection (9) of section 408.061, Florida  
4 Statutes, is amended to read:

5           408.061 Data collection; uniform systems of financial  
6 reporting; information relating to physician charges;  
7 confidentiality of patient records; immunity.--

8           (9) The identity of any health care provider, health  
9 care facility, or health insurer who submits any data which is  
10 proprietary business information to the agency pursuant to the  
11 provisions of this section shall remain confidential and  
12 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
13 I of the State Constitution. As used in this section,  
14 "proprietary business information" shall include, but not be  
15 limited to, information relating to specific provider contract  
16 reimbursement information; information relating to security  
17 measures, systems, or procedures; and information concerning  
18 bids or other contractual data, the disclosure of which would  
19 impair efforts to contract for goods or services on favorable  
20 terms or would injure the affected entity's ability to compete  
21 in the marketplace. Notwithstanding the provisions of this  
22 subsection, any information obtained or generated pursuant to  
23 the provisions of s. 407.61, either by the Health Care Cost  
24 Containment Board or by the Agency for Health Care  
25 Administration upon transfer to that agency of the duties and  
26 functions of the Health Care Cost Containment Board, is not  
27 confidential and exempt from the provisions of s. 119.07(1)  
28 and s. 24(a), Art. I of the State Constitution. Such  
29 proprietary business information may be used in published  
30 analyses and reports or otherwise made available for public  
31 disclosure in such manner as to preserve the confidentiality

1 of the identity of the provider. This exemption shall not  
2 limit the use of any information used in conjunction with  
3 investigation or enforcement purposes under the provisions of  
4 s. 455.621 ~~455.225~~.

5 Section 21. Paragraph (b) of subsection (5) of section  
6 408.704, Florida Statutes, is amended to read:

7 408.704 Agency duties and responsibilities related to  
8 community health purchasing alliances.--The agency shall  
9 assist in developing a statewide system of community health  
10 purchasing alliances. To this end, the agency is responsible  
11 for:

12 (5) Establishing a data system for accountable health  
13 partnerships.

14 (b) The advisory data committee shall issue a report  
15 and recommendations on each of the following subjects as each  
16 is completed. A final report covering all subjects must be  
17 included in the final Florida Health Plan to be submitted to  
18 the Legislature on December 31, 1993. The report shall  
19 include recommendations regarding:

20 1. Types of data to be collected. Careful  
21 consideration shall be given to other data collection projects  
22 and standards for electronic data interchanges already in  
23 process in this state and nationally, to evaluating and  
24 recommending the feasibility and cost-effectiveness of various  
25 data collection activities, and to ensuring that data  
26 reporting is necessary to support the evaluation of providers  
27 with respect to cost containment, access, quality, control of  
28 expensive technologies, and customer satisfaction analysis.  
29 Data elements to be collected from providers include prices,  
30 utilization, patient outcomes, quality, and patient  
31 satisfaction. The completion of this task is the first

1 priority of the advisory data committee. The agency shall  
2 begin implementing these data collection activities  
3 immediately upon receipt of the recommendations, but no later  
4 than January 1, 1994. The data shall be submitted by  
5 hospitals, other licensed health care facilities, pharmacists,  
6 and group practices as defined in s. 455.654(3)(f)  
7 ~~455.236(3)(g)~~.

8           2. A standard data set, a standard cost-effective  
9 format for collecting the data, and a standard methodology for  
10 reporting the data to the agency, or its designee, and to the  
11 alliances. The reporting mechanisms must be designed to  
12 minimize the administrative burden and cost to health care  
13 providers and carriers. A methodology shall be developed for  
14 aggregating data in a standardized format for making  
15 comparisons between accountable health partnerships which  
16 takes advantage of national models and activities.

17           3. Methods by which the agency should collect,  
18 process, analyze, and distribute the data.

19           4. Standards for data interpretation. The advisory  
20 data committee shall actively solicit broad input from the  
21 provider community, carriers, the business community, and the  
22 general public.

23           5. Structuring the data collection process to:

24           a. Incorporate safeguards to ensure that the health  
25 care services utilization data collected is reviewed by  
26 experienced, practicing physicians licensed to practice  
27 medicine in this state;

28           b. Require that carrier customer satisfaction data  
29 conclusions are validated by the agency;

30           c. Protect the confidentiality of medical information  
31 to protect the patient's identity and to protect the privacy

1 of individual physicians and patients. Proprietary data  
2 submitted by insurers, providers, and purchasers are  
3 confidential pursuant to s. 408.061; and

4 d. Afford all interested professional medical and  
5 hospital associations and carriers a minimum of 60 days to  
6 review and comment before data is released to the public.

7 6. Developing a data collection implementation  
8 schedule, based on the data collection capabilities of  
9 carriers and providers.

10 Section 22. Subsections (1) and (2) of section  
11 409.2598, Florida Statutes, are amended to read:

12 409.2598 Suspension or denial of new or renewal  
13 licenses; registrations; certifications.--

14 (1) The Title IV-D agency may petition the court that  
15 entered the support order or the court that is enforcing the  
16 support order to deny or suspend the license, registration, or  
17 certificate issued under chapter 231, chapter 370, chapter  
18 372, chapter 409, part II of chapter 455, or chapter 559 or s.  
19 327.031 of any obligor with a delinquent child support  
20 obligation or who fails, after receiving appropriate notice,  
21 to comply with subpoenas, orders to appear, orders to show  
22 cause, or similar orders relating to paternity or child  
23 support proceedings. However, a petition may not be filed  
24 until the Title IV-D agency has exhausted all other available  
25 remedies. The purpose of this section is to promote the public  
26 policy of the state as established in s. 409.2551.

27 (2) The Title IV-D agency is authorized to screen all  
28 applicants for new or renewal licenses, registrations, or  
29 certificates and current licenses, registrations, or  
30 certificates and current licensees, registration holders, and  
31 certificate holders of all licenses, registrations, and

1 certificates issued under chapter 231, chapter 370, chapter  
2 372, chapter 409, part II of chapter 455, or chapter 559 or s.  
3 327.031 to ensure compliance with any child support obligation  
4 and any subpoenas, orders to appear, orders to show cause, or  
5 similar orders relating to paternity or child support  
6 proceedings. If the Title IV-D agency determines that an  
7 applicant, licensee, registration holder, or certificateholder  
8 is an obligor who is delinquent on a support obligation or who  
9 is not in compliance with a subpoena, order to appear, order  
10 to show cause, or similar order relating to paternity or child  
11 support proceedings, the Title IV-D agency shall certify the  
12 delinquency pursuant to s. 61.14.

13 Section 23. Paragraph (d) of subsection (12) of  
14 section 409.908, Florida Statutes, is amended to read:

15 409.908 Reimbursement of Medicaid providers.--Subject  
16 to specific appropriations, the agency shall reimburse  
17 Medicaid providers, in accordance with state and federal law,  
18 according to methodologies set forth in the rules of the  
19 agency and in policy manuals and handbooks incorporated by  
20 reference therein. These methodologies may include fee  
21 schedules, reimbursement methods based on cost reporting,  
22 negotiated fees, competitive bidding pursuant to s. 287.057,  
23 and other mechanisms the agency considers efficient and  
24 effective for purchasing services or goods on behalf of  
25 recipients. Payment for Medicaid compensable services made on  
26 behalf of Medicaid eligible persons is subject to the  
27 availability of moneys and any limitations or directions  
28 provided for in the General Appropriations Act or chapter 216.  
29 Further, nothing in this section shall be construed to prevent  
30 or limit the agency from adjusting fees, reimbursement rates,  
31 lengths of stay, number of visits, or number of services, or



1 making any other adjustments necessary to comply with the  
2 availability of moneys and any limitations or directions  
3 provided for in the General Appropriations Act, provided the  
4 adjustment is consistent with legislative intent.

5 (12)

6 (d) Notwithstanding paragraph (b), reimbursement fees  
7 to physicians for providing total obstetrical services to  
8 Medicaid recipients, which include prenatal, delivery, and  
9 postpartum care, shall be at least \$1,500 per delivery for a  
10 pregnant woman with low medical risk and at least \$2,000 per  
11 delivery for a pregnant woman with high medical risk. However,  
12 reimbursement to physicians working in Regional Perinatal  
13 Intensive Care Centers designated pursuant to chapter 383, for  
14 services to certain pregnant Medicaid recipients with a high  
15 medical risk, may be made according to obstetrical care and  
16 neonatal care groupings and rates established by the agency.  
17 Nurse midwives licensed under chapter 464 or midwives licensed  
18 under chapter 467 shall be reimbursed at no less than 80  
19 percent of the low medical risk fee. The agency shall by rule  
20 determine, for the purpose of this paragraph, what constitutes  
21 a high or low medical risk pregnant woman and shall not pay  
22 more based solely on the fact that a caesarean section was  
23 performed, rather than a vaginal delivery. The agency shall by  
24 rule determine a prorated payment for obstetrical services in  
25 cases where only part of the total prenatal, delivery, or  
26 postpartum care was performed. The Department of Health Agency  
27 ~~for Health Care Administration~~ shall adopt rules within  
28 chapter 467 for appropriate insurance coverage by such  
29 licensees. Prior to the issuance and renewal of an active  
30 license, or reactivation of an inactive license for midwives  
31

1 licensed under chapter 467, such licensees shall submit proof  
2 of coverage with each application.

3 Section 24. Paragraph (g) of subsection (1) of section  
4 415.1055, Florida Statutes, is amended to read:

5 415.1055 Notification to administrative entities,  
6 subjects, and reporters; notification to law enforcement and  
7 state attorneys.--

8 (1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.--

9 (g) If at any time during a protective investigation  
10 the department has reasonable cause to believe that  
11 professional licensure violations have occurred, the  
12 department shall notify the Division of Medical Quality  
13 Assurance within the Department of Health ~~Agency for Health~~  
14 ~~Care Administration~~. This notification must be in writing.

15 Section 25. Subsection (3) of section 415.5055,  
16 Florida Statutes, is amended to read:

17 415.5055 Child protection teams; services; eligible  
18 cases.--The department shall develop, maintain, and coordinate  
19 the services of one or more multidisciplinary child protection  
20 teams in each of the service districts of the department.  
21 Such teams may be composed of representatives of appropriate  
22 health, mental health, social service, legal service, and law  
23 enforcement agencies. The Legislature finds that optimal  
24 coordination of child protection teams and sexual abuse  
25 treatment programs requires collaboration between the  
26 Department of Health and the Department of Children and Family  
27 Services. The two departments shall maintain an interagency  
28 agreement that establishes protocols for oversight and  
29 operations of child protection teams and sexual abuse  
30 treatment programs. The Secretary of Health and the Director  
31 of the Division of Children's Medical Services, in

1 consultation with the Secretary of Children and Family  
2 Services, shall maintain the responsibility for the screening,  
3 employment, and, if necessary, the termination of child  
4 protection team medical directors, at headquarters and in the  
5 15 districts. Child protection team medical directors shall be  
6 responsible for oversight of the teams in the districts.

7 (3) All records and reports of the child protection  
8 team are confidential and exempt from the provisions of ss.  
9 119.07(1) and 455.667 ~~455.241~~, and shall not be disclosed,  
10 except, upon request, to the state attorney, law enforcement,  
11 the department, and necessary professionals, in furtherance of  
12 the treatment or additional evaluative needs of the child or  
13 by order of the court.

14  
15 In all instances in which a child protection team is providing  
16 certain services to abused or neglected children, other  
17 offices and units of the department shall avoid duplicating  
18 the provision of those services.

19 Section 26. Subsection (5) of section 415.51, Florida  
20 Statutes, is amended to read:

21 415.51 Confidentiality of reports and records in cases  
22 of child abuse or neglect.--

23 (5) All records and reports of the child protection  
24 team are confidential and exempt from the provisions of ss.  
25 119.07(1) and 455.667 ~~455.241~~, and shall not be disclosed,  
26 except, upon request, to the state attorney, law enforcement,  
27 the department, and necessary professionals, in furtherance of  
28 the treatment or additional evaluative needs of the child or  
29 by order of the court.

30  
31

1           Section 27. Paragraph (h) of subsection (3) and  
2 paragraph (c) of subsection (4) of section 440.13, Florida  
3 Statutes, are amended to read:

4           440.13 Medical services and supplies; penalty for  
5 violations; limitations.--

6           (3) PROVIDER ELIGIBILITY; AUTHORIZATION.--

7           (h) The provisions of s. 455.654 ~~455.236~~ are  
8 applicable to referrals among health care providers, as  
9 defined in subsection (1), treating injured workers.

10          (4) NOTICE OF TREATMENT TO CARRIER; FILING WITH  
11 DIVISION.--

12          (c) It is the policy for the administration of the  
13 workers' compensation system that there be reasonable access  
14 to medical information by all parties to facilitate the  
15 self-executing features of the law. Notwithstanding the  
16 limitations in s. 455.667 ~~455.241~~ and subject to the  
17 limitations in s. 381.004, upon the request of the employer,  
18 the carrier, or the attorney for either of them, the medical  
19 records of an injured employee must be furnished to those  
20 persons and the medical condition of the injured employee must  
21 be discussed with those persons, if the records and the  
22 discussions are restricted to conditions relating to the  
23 workplace injury. Any such discussions may be held before or  
24 after the filing of a claim without the knowledge, consent, or  
25 presence of any other party or his or her agent or  
26 representative. A health care provider who willfully refuses  
27 to provide medical records or to discuss the medical condition  
28 of the injured employee, after a reasonable request is made  
29 for such information pursuant to this subsection, shall be  
30 subject by the division to one or more of the penalties set  
31 forth in paragraph (8)(b).

1           Section 28. Subsection (2) of section 455.209, Florida  
2 Statutes, is amended to read:

3           455.209 Accountability and liability of board  
4 members.--

5           (2) Each board member and each former board member  
6 serving on a probable cause panel shall be exempt from civil  
7 liability for any act or omission when acting in the member's  
8 official capacity, and the department, or the Department of  
9 Legal Affairs shall defend any such member in any action  
10 against any board or member of a board arising from any such  
11 act or omission. In addition, the department or the Department  
12 of Legal Affairs may defend the member's company or business  
13 in any action against the company or business if the  
14 department or the Department of Legal Affairs determines that  
15 the actions from which the suit arises are actions taken by  
16 the member in the member's official capacity and were not  
17 beyond the member's statutory authority. In providing such  
18 defense, the department, ~~the agency,~~ or the Department of  
19 Legal Affairs may employ or utilize the legal services of  
20 outside counsel.

21           Section 29. Subsection (1) of section 455.213, Florida  
22 Statutes, is amended to read:

23           455.213 General licensing provisions.--

24           (1) Any person desiring to be licensed shall apply to  
25 the department in writing. The application for licensure shall  
26 be made on a form prepared and furnished by the department and  
27 include the applicant's social security number. The  
28 application shall be supplemented as needed to reflect any  
29 material change in any circumstance or condition stated in the  
30 application which takes place between the initial filing of  
31 the application and the final grant or denial of the license

1 and which might affect the decision of the department ~~agency~~.  
2 In order to further the economic development goals of the  
3 state, and notwithstanding any law to the contrary, the  
4 department may enter into an agreement with the county tax  
5 collector for the purpose of appointing the county tax  
6 collector as the department's agent to accept applications for  
7 licenses and applications for renewals of licenses. The  
8 agreement must specify the time within which the tax collector  
9 must forward any applications and accompanying application  
10 fees to the department. In cases where a person applies or  
11 schedules directly with a national examination organization or  
12 examination vendor to take an examination required for  
13 licensure, any organization-related or vendor-related fees  
14 associated with the examination may be paid directly to the  
15 organization or vendor.

16 Section 30. Subsection (6) of section 455.218, Florida  
17 Statutes, is amended to read:

18 455.218 Foreign-trained professionals; special  
19 examination and license provisions.--

20 (6) The department, for its boards, shall not issue an  
21 initial license to, or renew a license of, any applicant or  
22 licensee who is under investigation or prosecution in any  
23 jurisdiction for an action which would constitute a violation  
24 of this part or the professional practice acts administered by  
25 the department ~~or agency~~ and the boards until such time as the  
26 investigation or prosecution is complete, at which time the  
27 provisions of the professional practice acts shall apply.

28 Section 31. Subsection (8) of section 455.2285,  
29 Florida Statutes, is amended to read:

30 455.2285 Annual report concerning finances,  
31 administrative complaints, disciplinary actions, and

1 recommendations.--The department is directed to prepare and  
2 submit a report to the President of the Senate and Speaker of  
3 the House of Representatives by November 1 of each year. In  
4 addition to finances and any other information the Legislature  
5 may require, the report shall include statistics and relevant  
6 information, profession by profession, detailing:

7 (8) A description of any effort by the department  
8 ~~agency~~, for any disciplinary cases under its jurisdiction, to  
9 reduce or otherwise close any investigation or disciplinary  
10 proceeding not before the Division of Administrative Hearings  
11 under chapter 120 or otherwise not completed within 1 year  
12 after the initial filing of a complaint under this chapter.

13 Section 32. Paragraph (b) of subsection (1) and  
14 subsections (2) and (3) of section 455.565, Florida Statutes,  
15 are amended to read:

16 455.565 Designated healthcare professionals;  
17 information required for licensure.--

18 (1) Each person who applies for initial licensure as a  
19 physician under chapter 458, chapter 459, chapter 460, or  
20 chapter 461 must, at the time of application, and each  
21 physician who applies for license renewal under chapter 458,  
22 chapter 459, chapter 460, or chapter 461 must, in conjunction  
23 with the renewal of such license and under procedures adopted  
24 by the Department of Health, and in addition to any other  
25 information that may be required from the applicant, furnish  
26 the following information to the Department of Health:

27 (b) In addition to the information required under  
28 paragraph (a), each applicant who seeks licensure under  
29 chapter 458, chapter 459, or chapter 461, and who has  
30 practiced previously in this state or in another jurisdiction  
31 or a foreign country must provide the information required of

1 licenses under those chapters pursuant to s. 455.697 ~~455.247~~.  
2 An applicant for licensure under chapter 460 who has practiced  
3 previously in this state or in another jurisdiction or a  
4 foreign country must provide the same information as is  
5 required of licensees under chapter 458, pursuant to s.  
6 455.697 ~~455.247~~.

7 (2) Before the issuance of the licensure renewal  
8 notice required by s. 455.714 ~~455.273~~, the Department of  
9 Health shall send a notice to each person licensed under  
10 chapter 458, chapter 459, chapter 460, or chapter 461, at the  
11 licensee's last known address of record with the department,  
12 regarding the requirements for information to be submitted by  
13 those practitioners pursuant to this section in conjunction  
14 with the renewal of such license and under procedures adopted  
15 by the department.

16 (3) Each person who has submitted information pursuant  
17 to subsection (1) must update that information in writing by  
18 notifying the Department of Health within 45 days after the  
19 occurrence of an event or the attainment of a status that is  
20 required to be reported by subsection (1). Failure to comply  
21 with the requirements of this subsection to update and submit  
22 information constitutes a ground for disciplinary action under  
23 each respective licensing chapter and s. 455.624~~455.227~~(1)(k).  
24 For failure to comply with the requirements of this subsection  
25 to update and submit information, the department or board, as  
26 appropriate, may:

27 (a) Refuse to issue a license to any person applying  
28 for initial licensure who fails to submit and update the  
29 required information.

30 (b) Issue a citation to any licensee who fails to  
31 submit and update the required information and may fine the



1 licensee up to \$50 for each day that the licensee is not in  
2 compliance with this subsection. The citation must clearly  
3 state that the licensee may choose, in lieu of accepting the  
4 citation, to follow the procedure under s. 455.621 ~~455.225~~. If  
5 the licensee disputes the matter in the citation, the  
6 procedures set forth in s. 455.621 ~~455.225~~ must be followed.  
7 However, if the licensee does not dispute the matter in the  
8 citation with the department within 30 days after the citation  
9 is served, the citation becomes a final order and constitutes  
10 discipline. Service of a citation may be made by personal  
11 service or certified mail, restricted delivery, to the subject  
12 at the licensee's last known address.

13 Section 33. Subsection (4) of section 455.5651,  
14 Florida Statutes, is amended to read:

15 455.5651 Practitioner profile; creation.--

16 (4) The Department of Health shall include, with  
17 respect to a practitioner licensed under chapter 458 or  
18 chapter 459, a statement of how the practitioner has elected  
19 to comply with the financial responsibility requirements of s.  
20 458.320 or s. 459.0085. The department shall include, with  
21 respect to practitioners licensed under chapter 458, chapter  
22 459, or chapter 461, information relating to liability actions  
23 which has been reported under s. 455.697 ~~455.247~~ or s. 627.912  
24 within the previous 10 years for any paid claim that exceeds  
25 \$5,000. Such claims information shall be reported in the  
26 context of comparing an individual practitioner's claims to  
27 the experience of other physicians within the same specialty  
28 to the extent such information is available to the Department  
29 of Health. If information relating to a liability action is  
30 included in a practitioner's practitioner profile, the profile  
31 must also include the following statement: "Settlement of a

1 claim may occur for a variety of reasons that do not  
2 necessarily reflect negatively on the professional competence  
3 or conduct of the physician. A payment in settlement of a  
4 medical malpractice action or claim should not be construed as  
5 creating a presumption that medical malpractice has occurred."

6 Section 34. Section 455.641, Florida Statutes, is  
7 amended to read:

8 455.641 Unlicensed activities; fees; disposition.--In  
9 order to protect the public and to ensure a consumer-oriented  
10 department, it is the intent of the Legislature that vigorous  
11 enforcement of regulation for all professional activities is a  
12 state priority. All enforcement costs should be covered by  
13 professions regulated by the department. Therefore, the  
14 department shall impose, upon initial licensure and each  
15 renewal thereof, a special fee of \$5 per licensee. Such fee  
16 shall be in addition to all other fees collected from each  
17 licensee and shall fund efforts to combat unlicensed activity.  
18 The board with concurrence of the department, or the  
19 department when there is no board, may earmark \$5 of the  
20 current licensure fee for this purpose, if such board, or  
21 profession regulated by the department, is not in a deficit  
22 and has a reasonable cash balance. The department shall make  
23 direct charges to this fund by profession and shall not  
24 allocate indirect overhead. The department shall seek board  
25 advice regarding enforcement methods and strategies prior to  
26 expenditure of funds. The department shall directly credit, by  
27 profession, revenues received from the department's efforts to  
28 enforce licensure provisions. The department shall include all  
29 financial and statistical data resulting from unlicensed  
30 activity enforcement as a separate category in the quarterly  
31 management report provided for in s. 455.587 ~~455.219~~. The

1 department shall not charge the account of any profession for  
2 the costs incurred on behalf of any other profession. For an  
3 unlicensed activity account, a balance which remains at the  
4 end of a renewal cycle may, with concurrence of the applicable  
5 board and the department, be transferred to the operating fund  
6 account of that profession.

7 Section 35. Subsection (2) of section 455.651, Florida  
8 Statutes, is amended to read:

9 455.651 Disclosure of confidential information.--

10 (2) Any person who willfully violates any provision of  
11 this section is guilty of a misdemeanor of the first degree,  
12 punishable as provided in s. 775.082 or s. 775.083, and may be  
13 subject to discipline pursuant to s. 455.624 ~~455.227~~, and, if  
14 applicable, shall be removed from office, employment, or the  
15 contractual relationship.

16 Section 36. Subsection (1) of section 455.698, Florida  
17 Statutes, is amended to read:

18 455.698 Reports of professional liability actions;  
19 bankruptcies; Department of Health's responsibility to  
20 provide.--

21 (1) The report of a claim or action for damages for  
22 personal injury which is required to be provided to the  
23 Department of Health under s. 455.697 ~~455.247~~ or s. 627.912 is  
24 public information except for the name of the claimant or  
25 injured person, which remains confidential as provided in ss.  
26 455.697~~455.247~~(2)(d) and 627.912(2)(e). The Department of  
27 Health shall, upon request, make such report available to any  
28 person.

29 Section 37. Subsection (2) of section 455.717, Florida  
30 Statutes, is amended to read:

31 455.717 Address of record.--

1           (2) Notwithstanding any other law, service by regular  
2 mail to a licensee's last known address of record with the  
3 department constitutes adequate and sufficient notice to the  
4 licensee for any official communication to the licensee by the  
5 board or the department except when other service is required  
6 under s. 455.707 ~~455.261~~.

7           Section 38. Subsection (2) of section 457.103, Florida  
8 Statutes, is amended to read:

9           457.103 Board of Acupuncture; membership; appointment  
10 and terms.--

11           (2) All provisions of part II of chapter 455 relating  
12 to the board shall apply.

13           Section 39. Subsection (6) of section 458.307, Florida  
14 Statutes, is amended to read:

15           458.307 Board of Medicine.--

16           (6) All provisions of part II of chapter 455 relating  
17 to activities of the board shall apply.

18           Section 40. Paragraph (a) of subsection (9) of section  
19 458.311, Florida Statutes, is amended to read:

20           458.311 Licensure by examination; requirements;  
21 fees.--

22           (9)(a) Notwithstanding any of the provisions of this  
23 section, an applicant who, at the time of his or her medical  
24 education, was a citizen of the country of Nicaragua and, at  
25 the time of application for licensure under this subsection,  
26 is either a citizen of the country of Nicaragua or a citizen  
27 of the United States may make initial application to the  
28 department on or before July 1, 1992, for licensure subject to  
29 this subsection and may reapply pursuant to board rule. Upon  
30 receipt of such application, the department shall issue a  
31 2-year restricted license to any applicant therefor upon the

1 applicant's successful completion of the licensure examination  
2 as described in paragraph (1)(a) and who the board certifies  
3 has met the following requirements:

4           1. Is a graduate of a World Health Organization  
5 recognized foreign medical institution located in a country in  
6 the Western Hemisphere.

7           2. Received a medical education which has been  
8 determined by the board to be substantially similar, at the  
9 time of the applicant's graduation, to approved United States  
10 medical programs.

11           3. Practiced medicine in the country of Nicaragua for  
12 a period of 1 year prior to residing in the United States and  
13 has lawful employment authority in the United States.

14           4. Has had his or her medical education verified by  
15 the Florida Board of Medicine.

16           5. Successfully completed the Educational Commission  
17 for Foreign Medical Graduates Examination or Foreign Medical  
18 Graduate Examination in the Medical Sciences or successfully  
19 completed a course developed for the University of Miami for  
20 physician training equivalent to the course developed for such  
21 purposes pursuant to chapter 74-105, Laws of Florida. No  
22 person shall be permitted to enroll in the physician training  
23 course until he or she has been certified by the board as  
24 having met the requirements of this paragraph or conditionally  
25 certified by the board as having substantially complied with  
26 the requirements of this paragraph. Any person conditionally  
27 certified by the board shall be required to establish, to the  
28 board's satisfaction, full compliance with all the  
29 requirements of this paragraph prior to completion of the  
30 physician training course and shall not be permitted to sit  
31

1 for the licensure examination unless the board certifies that  
2 all of the requirements of this paragraph have been met.

3  
4 However, applicants eligible for licensure under s. 455.581  
5 ~~455.218~~ or subsection (9), 1988 Supplement to the Florida  
6 Statutes 1987, as amended by s. 18, chapter 89-162, Laws of  
7 Florida, and ss. 5 and 42, chapter 89-374, Laws of Florida,  
8 and renumbered as subsection (8) by s. 5, chapter 89-374, Laws  
9 of Florida, shall not be eligible to apply under this  
10 subsection.

11 Section 41. Paragraph (c) of subsection (1) and  
12 paragraph (a) of subsection (3) of section 458.3115, Florida  
13 Statutes, are amended to read:

14 458.3115 Restricted license; certain foreign-licensed  
15 physicians; United States Medical Licensing Examination  
16 (USMLE) or agency-developed examination; restrictions on  
17 practice; full licensure.--

18 (1)

19 (c) A person shall be eligible to take such  
20 examination for restricted licensure if the person:

21 1. Has taken, upon approval by the board, and  
22 completed, in November 1990 or November 1992, one of the  
23 special preparatory medical update courses authorized by the  
24 board and the University of Miami Medical School and  
25 subsequently passed the final course examination; upon  
26 approval by the board to take the course completed in 1990 or  
27 in 1992, has a certificate of successful completion of that  
28 course from the University of Miami or the Stanley H. Kaplan  
29 course; or can document to the department that he or she was  
30 one of the persons who took and successfully completed the  
31 Stanley H. Kaplan course that was approved by the Board of

1 Medicine and supervised by the University of Miami. At a  
2 minimum, the documentation must include class attendance  
3 records and the test score on the final course examination;  
4         2. Applies to the agency and submits an application  
5 fee that is nonrefundable and equivalent to the fee required  
6 for full licensure;  
7         3. Documents no less than 2 years of the active  
8 practice of medicine in another jurisdiction;  
9         4. Submits an examination fee that is nonrefundable  
10 and equivalent to the fee required for full licensure plus the  
11 actual per-applicant cost to the agency to provide either  
12 examination described in this section;  
13         5. Has not committed any act or offense in this or any  
14 other jurisdiction that would constitute a substantial basis  
15 for disciplining a physician under this chapter or part II of  
16 chapter 455; and  
17         6. Is not under discipline, investigation, or  
18 prosecution in this or any other jurisdiction for an act that  
19 would constitute a violation of this chapter or part II of  
20 chapter 455 and that substantially threatened or threatens the  
21 public health, safety, or welfare.  
22         (3)(a) A restricted license issued by the agency under  
23 this section is valid for 2 years unless sooner revoked or  
24 suspended, and a restricted licensee is subject to the  
25 requirements of this chapter, part II of chapter 455, and any  
26 other provision of law not in conflict with this section.  
27 Upon expiration of such restricted license, a restricted  
28 licensee shall become a full licensee if the restricted  
29 licensee:  
30  
31

1           1. Is not under discipline, investigation, or  
2 prosecution for a violation which poses a substantial threat  
3 to the public health, safety, or welfare; and

4           2. Pays all renewal fees required of a full licensee.

5           Section 42. Paragraph (d) of subsection (1) of section  
6 458.3124, Florida Statutes, is amended to read:

7           458.3124 Restricted license; certain experienced  
8 foreign-trained physicians.--

9           (1) A person who was trained in a medical school that  
10 is listed in the World Directory of Medical Schools published  
11 by the World Health Organization and is located in a country  
12 other than the United States, Canada, or Puerto Rico may apply  
13 to take Step III of the United States Medical Licensing  
14 Examination, if the person:

15           (d) Is not subject to discipline, investigation, or  
16 prosecution in any jurisdiction for acts that threaten the  
17 public health, safety, or welfare or violate part II of  
18 chapter 455 or this chapter; and

19           Section 43. Subsection (1) of section 458.319, Florida  
20 Statutes, is amended to read:

21           458.319 Renewal of license.--

22           (1) The department shall renew a license upon receipt  
23 of the renewal application, evidence that the applicant has  
24 actively practiced medicine or has been on the active teaching  
25 faculty of an accredited medical school for at least 2 years  
26 of the immediately preceding 4 years, and a fee not to exceed  
27 \$500; provided, however, that if the licensee is either a  
28 resident physician, assistant resident physician, fellow,  
29 house physician, or intern in an approved postgraduate  
30 training program, as defined by the board by rule, the fee  
31 shall not exceed \$100 per annum. If the licensee has not



1 actively practiced medicine for at least 2 years of the  
2 immediately preceding 4 years, the board shall require that  
3 the licensee successfully complete a board-approved clinical  
4 competency examination prior to renewal of the license.  
5 "Actively practiced medicine" means that practice of medicine  
6 by physicians, including those employed by any governmental  
7 entity in community or public health, as defined by this  
8 chapter, including physicians practicing administrative  
9 medicine. An applicant for a renewed license must also submit  
10 the information required under s. 455.565 to the department on  
11 a form and under procedures specified by the department, along  
12 with payment in an amount equal to the costs incurred by the  
13 Department of Health for the statewide criminal background  
14 check of the applicant. The applicant must submit a set of  
15 fingerprints to the Department of Health on a form and under  
16 procedures specified by the department, along with payment in  
17 an amount equal to the costs incurred by the department for a  
18 national criminal background check of the applicant for the  
19 initial renewal of his or her license after January 1, 2000.  
20 If the applicant fails to submit either the information  
21 required under s. 455.565 or a set of fingerprints to the  
22 department as required by this section, the department shall  
23 issue a notice of noncompliance, and the applicant will be  
24 given 30 additional days to comply. If the applicant fails to  
25 comply within 30 days after the notice of noncompliance is  
26 issued, the department or board, as appropriate, may issue a  
27 citation to the applicant and may fine the applicant up to \$50  
28 for each day that the applicant is not in compliance with the  
29 requirements of s. 455.565. The citation must clearly state  
30 that the applicant may choose, in lieu of accepting the  
31 citation, to follow the procedure under s. 455.621 ~~455.225~~. If

1 the applicant disputes the matter in the citation, the  
2 procedures set forth in s. 455.621 ~~455.225~~ must be followed.  
3 However, if the applicant does not dispute the matter in the  
4 citation with the department within 30 days after the citation  
5 is served, the citation becomes a final order and constitutes  
6 discipline. Service of a citation may be made by personal  
7 service or certified mail, restricted delivery, to the subject  
8 at the applicant's last known address. If an applicant has  
9 submitted fingerprints to the department for a national  
10 criminal history check upon initial licensure and is renewing  
11 his or her license for the first time, then the applicant need  
12 only submit the information and fee required for a statewide  
13 criminal history check.

14 Section 44. Paragraph (e) of subsection (1) and  
15 subsection (6) of section 458.331, Florida Statutes, are  
16 amended to read:

17 458.331 Grounds for disciplinary action; action by the  
18 board and department.--

19 (1) The following acts shall constitute grounds for  
20 which the disciplinary actions specified in subsection (2) may  
21 be taken:

22 (e) Failing to report to the department any person who  
23 the licensee knows is in violation of this chapter or of the  
24 rules of the department or the board. A treatment provider  
25 approved pursuant to s. 455.707 ~~455.261~~ shall provide the  
26 department or consultant with information in accordance with  
27 the requirements of s. 455.707~~455.261~~(3), (4), (5), and (6).

28 (6) Upon the department's receipt from an insurer or  
29 self-insurer of a report of a closed claim against a physician  
30 pursuant to s. 627.912 or from a health care practitioner of a  
31 report pursuant to s. 455.697 ~~455.247~~, or upon the receipt

1 from a claimant of a presuit notice against a physician  
2 pursuant to s. 766.106, the department shall review each  
3 report and determine whether it potentially involved conduct  
4 by a licensee that is subject to disciplinary action, in which  
5 case the provisions of s. 455.621 ~~455.225~~ shall apply.  
6 However, if it is reported that a physician has had three or  
7 more claims with indemnities exceeding \$25,000 each within the  
8 previous 5-year period, the department shall investigate the  
9 occurrences upon which the claims were based and determine if  
10 action by the department against the physician is warranted.

11 Section 45. Section 458.343, Florida Statutes, is  
12 amended to read:

13 458.343 Subpoena of certain records.--Notwithstanding  
14 the provisions of s. 455.667 ~~455.241~~, the department may issue  
15 subpoenas duces tecum requiring the names and addresses of  
16 some or all of the patients of a physician against whom a  
17 complaint has been filed pursuant to s. 455.621 ~~455.225~~.

18 Section 46. Paragraph (g) of subsection (7) and  
19 subsections (10) and (16) of section 458.347, Florida  
20 Statutes, are amended to read:

21 458.347 Physician assistants.--

22 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

23 (g) The Board of Medicine may impose any of the  
24 penalties specified in ss. 455.624 ~~455.227~~ and 458.331(2) upon  
25 a physician assistant if the physician assistant or the  
26 supervising physician has been found guilty of or is being  
27 investigated for any act that constitutes a violation of this  
28 chapter or part II of chapter 455.

29 (10) INACTIVE AND DELINQUENT STATUS.--A certificate on  
30 inactive or delinquent status may be reactivated only as  
31 provided in s. 455.711 ~~455.271~~.

1           (16) LEGAL SERVICES.--The Department of Legal Affairs  
2 shall provide legal services to the council as authorized in  
3 s. ~~455.594455.221~~(1).

4           Section 47. Subsection (4) of section 459.004, Florida  
5 Statutes, is amended to read:

6           459.004 Board of Osteopathic Medicine.--

7           (4) All provisions of part II of chapter 455 relating  
8 to activities of the board shall apply.

9           Section 48. Subsection (1) of section 459.008, Florida  
10 Statutes, is amended to read:

11          459.008 Renewal of licenses and certificates.--

12          (1) The department shall renew a license or  
13 certificate upon receipt of the renewal application and fee.  
14 An applicant for a renewed license must also submit the  
15 information required under s. 455.565 to the department on a  
16 form and under procedures specified by the department, along  
17 with payment in an amount equal to the costs incurred by the  
18 Department of Health for the statewide criminal background  
19 check of the applicant. The applicant must submit a set of  
20 fingerprints to the Department of Health on a form and under  
21 procedures specified by the department, along with payment in  
22 an amount equal to the costs incurred by the department for a  
23 national criminal background check of the applicant for the  
24 initial renewal of his or her license after January 1, 2000.  
25 If the applicant fails to submit either the information  
26 required under s. 455.565 or a set of fingerprints to the  
27 department as required by this section, the department shall  
28 issue a notice of noncompliance, and the applicant will be  
29 given 30 additional days to comply. If the applicant fails to  
30 comply within 30 days after the notice of noncompliance is  
31 issued, the department or board, as appropriate, may issue a

1 citation to the applicant and may fine the applicant up to \$50  
2 for each day that the applicant is not in compliance with the  
3 requirements of s. 455.565. The citation must clearly state  
4 that the applicant may choose, in lieu of accepting the  
5 citation, to follow the procedure under s. 455.621 ~~455.225~~. If  
6 the applicant disputes the matter in the citation, the  
7 procedures set forth in s. 455.621 ~~455.225~~ must be followed.  
8 However, if the applicant does not dispute the matter in the  
9 citation with the department within 30 days after the citation  
10 is served, the citation becomes a final order and constitutes  
11 discipline. Service of a citation may be made by personal  
12 service or certified mail, restricted delivery, to the subject  
13 at the applicant's last known address. If an applicant has  
14 submitted fingerprints to the department for a national  
15 criminal history check upon initial licensure and is renewing  
16 his or her license for the first time, then the applicant need  
17 only submit the information and fee required for a statewide  
18 criminal history check.

19 Section 49. Paragraph (e) of subsection (1) and  
20 subsection (6) of section 459.015, Florida Statutes, are  
21 amended to read:

22 459.015 Grounds for disciplinary action by the  
23 board.--

24 (1) The following acts shall constitute grounds for  
25 which the disciplinary actions specified in subsection (2) may  
26 be taken:

27 (e) Failing to report to the department or the  
28 department's impaired professional consultant any person who  
29 the licensee or certificateholder knows is in violation of  
30 this chapter or of the rules of the department or the board.

31 A treatment provider, approved pursuant to s. 455.707 ~~455.261~~,

1 shall provide the department or consultant with information in  
2 accordance with the requirements of s. 455.707~~455.261~~(3), (4),  
3 (5), and (6).

4 (6) Upon the department's receipt from an insurer or  
5 self-insurer of a report of a closed claim against an  
6 osteopathic physician pursuant to s. 627.912 or from a health  
7 care practitioner of a report pursuant to s. 455.697 ~~455.247~~,  
8 or upon the receipt from a claimant of a presuit notice  
9 against an osteopathic physician pursuant to s. 766.106, the  
10 department shall review each report and determine whether it  
11 potentially involved conduct by a licensee that is subject to  
12 disciplinary action, in which case the provisions of s.  
13 455.621 ~~455.225~~ shall apply. However, if it is reported that  
14 an osteopathic physician has had three or more claims with  
15 indemnities exceeding \$25,000 each within the previous 5-year  
16 period, the department shall investigate the occurrences upon  
17 which the claims were based and determine if action by the  
18 department against the osteopathic physician is warranted.

19 Section 50. Section 459.019, Florida Statutes, is  
20 amended to read:

21 459.019 Subpoena of certain records.--Notwithstanding  
22 the provisions of s. 455.667 ~~455.241~~, the department may issue  
23 subpoenas duces tecum requiring the names and addresses of  
24 some or all of the patients of an osteopathic physician  
25 against whom a complaint has been filed pursuant to s. 455.621  
26 ~~455.225~~.

27 Section 51. Paragraph (f) of subsection (7) and  
28 subsections (10) and (16) of section 459.022, Florida  
29 Statutes, are amended to read:

30 459.022 Physician assistants.--

31 (7) PHYSICIAN ASSISTANT CERTIFICATION.--

1           (f) The Board of Osteopathic Medicine may impose any  
2 of the penalties specified in ss. 455.624 ~~455.227~~ and  
3 459.015(2) upon a physician assistant if the physician  
4 assistant or the supervising physician has been found guilty  
5 of or is being investigated for any act that constitutes a  
6 violation of this chapter or part II of chapter 455.

7           (10) INACTIVE AND DELINQUENT STATUS.--A certificate on  
8 inactive or delinquent status may be reactivated only as  
9 provided in s. 455.711 ~~455.271~~.

10           (16) LEGAL SERVICES.--The Department of Legal Affairs  
11 shall provide legal services to the council as authorized in  
12 s. 455.594~~455.221~~(1).

13           Section 52. Paragraph (c) of subsection (1) of section  
14 460.4061, Florida Statutes, is amended to read:

15           460.4061 Restricted license.--

16           (1) An applicant for licensure as a chiropractic  
17 physician may apply to the department for a restricted license  
18 without undergoing a state or national written or clinical  
19 competency examination for licensure if the applicant  
20 initially applies not later than October 31, 1994, for the  
21 restricted license and:

22           (c) Has never been disciplined for an offense that  
23 would be a violation under this chapter or part II of chapter  
24 455, imposed by another jurisdiction on the applicant's  
25 license to practice as a chiropractic physician.

26           Section 53. Subsection (1) of section 460.407, Florida  
27 Statutes, is amended to read:

28           460.407 Renewal of license.--

29           (1) The department shall renew a license upon receipt  
30 of the renewal application and the fee set by the board not to  
31 exceed \$500. An applicant for a renewed license must also

1 submit the information required under s. 455.565 to the  
2 department on a form and under procedures specified by the  
3 department, along with payment in an amount equal to the costs  
4 incurred by the Department of Health for the statewide  
5 criminal background check of the applicant. The applicant must  
6 submit a set of fingerprints to the Department of Health on a  
7 form and under procedures specified by the department, along  
8 with payment in an amount equal to the costs incurred by the  
9 department for a national criminal background check of the  
10 applicant for the initial renewal of his or her license after  
11 January 1, 2000. If the applicant fails to submit either the  
12 information required under s. 455.565 or a set of fingerprints  
13 to the department as required by this section, the department  
14 shall issue a notice of noncompliance, and the applicant will  
15 be given 30 additional days to comply. If the applicant fails  
16 to comply within 30 days after the notice of noncompliance is  
17 issued, the department or board, as appropriate, may issue a  
18 citation to the applicant and may fine the applicant up to \$50  
19 for each day that the applicant is not in compliance with the  
20 requirements of s. 455.565. The citation must clearly state  
21 that the applicant may choose, in lieu of accepting the  
22 citation, to follow the procedure under s. 455.621 ~~455.225~~. If  
23 the applicant disputes the matter in the citation, the  
24 procedures set forth in s. 455.621 ~~455.225~~ must be followed.  
25 However, if the applicant does not dispute the matter in the  
26 citation with the department within 30 days after the citation  
27 is served, the citation becomes a final order and constitutes  
28 discipline. Service of a citation may be made by personal  
29 service or certified mail, restricted delivery, to the subject  
30 at the applicant's last known address. If an applicant has  
31 submitted fingerprints to the department for a national



1 criminal history check upon initial licensure and is renewing  
2 his or her license for the first time, then the applicant need  
3 only submit the information and fee required for a statewide  
4 criminal history check.

5 Section 54. Subsection (1) of section 461.007, Florida  
6 Statutes, is amended to read:

7 461.007 Renewal of license.--

8 (1) The department shall renew a license upon receipt  
9 of the renewal application and a fee not to exceed \$350 set by  
10 the board. An applicant for a renewed license must also submit  
11 the information required under s. 455.565 to the department on  
12 a form and under procedures specified by the department, along  
13 with payment in an amount equal to the costs incurred by the  
14 Department of Health for the statewide criminal background  
15 check of the applicant. The applicant must submit a set of  
16 fingerprints to the Department of Health on a form and under  
17 procedures specified by the department, along with payment in  
18 an amount equal to the costs incurred by the department for a  
19 national criminal background check of the applicant for the  
20 initial renewal of his or her license after January 1, 2000.  
21 If the applicant fails to submit either the information  
22 required under s. 455.565 or a set of fingerprints to the  
23 department as required by this section, the department shall  
24 issue a notice of noncompliance, and the applicant will be  
25 given 30 additional days to comply. If the applicant fails to  
26 comply within 30 days after the notice of noncompliance is  
27 issued, the department or board, as appropriate, may issue a  
28 citation to the applicant and may fine the applicant up to \$50  
29 for each day that the applicant is not in compliance with the  
30 requirements of s. 455.565. The citation must clearly state  
31 that the applicant may choose, in lieu of accepting the

1 citation, to follow the procedure under s. 455.621 ~~455.225~~. If  
2 the applicant disputes the matter in the citation, the  
3 procedures set forth in s. 455.621 ~~455.225~~ must be followed.  
4 However, if the applicant does not dispute the matter in the  
5 citation with the department within 30 days after the citation  
6 is served, the citation becomes a final order and constitutes  
7 discipline. Service of a citation may be made by personal  
8 service or certified mail, restricted delivery, to the subject  
9 at the applicant's last known address. If an applicant has  
10 submitted fingerprints to the department for a national  
11 criminal history check upon initial licensure and is renewing  
12 his or her license for the first time, then the applicant need  
13 only submit the information and fee required for a statewide  
14 criminal history check.

15 Section 55. Subsection (2) of section 462.01, Florida  
16 Statutes, is amended to read:

17 462.01 Definitions.--As used in this chapter:

18 (2) "Department" means the Department of Health  
19 ~~Business and Professional Regulation~~.

20 Section 56. Subsection (2) of section 463.002, Florida  
21 Statutes, is amended to read:

22 463.002 Definitions.--As used in this chapter, the  
23 term:

24 (2) "Department" means the Department of Health  
25 ~~Business and Professional Regulation~~.

26 Section 57. Subsection (4) of section 463.003, Florida  
27 Statutes, is amended to read:

28 463.003 Board of Optometry.--

29 (4) All applicable provisions of part II of chapter  
30 455 relating to activities of regulatory boards shall apply.

31

1           Section 58. Paragraph (h) of subsection (1) of section  
2 463.016, Florida Statutes, is amended to read:

3           463.016 Grounds for disciplinary action; action by the  
4 board.--

5           (1) The following acts shall constitute grounds for  
6 which the disciplinary actions specified in subsection (2) may  
7 be taken:

8           (h) A violation or repeated violations of provisions  
9 of this chapter, or of part II of chapter 455, and any rules  
10 promulgated pursuant thereto.

11           Section 59. Subsection (4) of section 464.004, Florida  
12 Statutes, is amended to read:

13           464.004 Board of Nursing; membership; appointment;  
14 terms.--

15           (4) All provisions of part II of chapter 455 relating  
16 to activities of the board shall apply.

17           Section 60. Subsection (4) of section 465.004, Florida  
18 Statutes, is amended to read:

19           465.004 Board of Pharmacy.--

20           (4) All provisions of part II of chapter 455 relating  
21 to activities of the board shall apply.

22           Section 61. Section 465.006, Florida Statutes, is  
23 amended to read:

24           465.006 Disposition of fees; expenditures.--All moneys  
25 received under this chapter shall be deposited and expended  
26 pursuant to the provisions of s. 455.587 ~~215.37~~. All  
27 expenditures for duties of the board authorized by this  
28 chapter shall be paid upon presentation of vouchers approved  
29 by the executive director of the board.

30           Section 62. Subsections (4) and (6) of section  
31 466.004, Florida Statutes, are amended to read:

1           466.004 Board of Dentistry.--

2           (4) The board is authorized to adopt all rules  
3 necessary to carry out the provisions of this chapter and part  
4 II of chapter 455, including the establishment of a fee to  
5 defray the cost of duplicating any license certification or  
6 permit, not to exceed \$10 per duplication.

7           (6) All provisions of part II of chapter 455 relating  
8 to the board shall apply.

9           Section 63. Paragraph (b) of subsection (4) of section  
10 466.007, Florida Statutes, is amended to read:

11           466.007 Examination of dental hygienists.--

12           (4) To be licensed as a dental hygienist in this  
13 state, an applicant must successfully complete the following:

14           (b) A practical or clinical examination. The  
15 practical or clinical examination shall test competency in  
16 areas to be established by rule of the board which shall  
17 include testing the ability to adequately perform a  
18 prophylaxis. On or after October 1, 1986, every applicant who  
19 is otherwise qualified shall be eligible to take the  
20 examination a total of three times, notwithstanding the number  
21 of times the applicant has previously failed. If an applicant  
22 fails the examination three times, the applicant shall no  
23 longer be eligible to take the examination unless he or she  
24 obtains additional educational requirements established by the  
25 board. The department shall require a mandatory  
26 standardization exercise pursuant to s. ~~455.574~~455-217(1)(b)  
27 for all examiners prior to each practical or clinical  
28 examination and shall retain for employment only those  
29 dentists and dental hygienists who have substantially adhered  
30 to the standard of grading established at such exercise. It is  
31 the intent of the Legislature that the examinations relate to

1 those procedures which are actually performed by a dental  
2 hygienist in general practice.

3 Section 64. Subsection (1) of section 466.018, Florida  
4 Statutes, is amended to read:

5 466.018 Dentist of record; patient records.--

6 (1) Each patient shall have a dentist of record. The  
7 dentist of record shall remain primarily responsible for all  
8 dental treatment on such patient regardless of whether the  
9 treatment is rendered by the dentist or by another dentist,  
10 dental hygienist, or dental assistant rendering such treatment  
11 in conjunction with, at the direction or request of, or under  
12 the supervision of such dentist of record. The dentist of  
13 record shall be identified in the record of the patient. If  
14 treatment is rendered by a dentist other than the dentist of  
15 record or by a dental hygienist or assistant, the name or  
16 initials of such person shall be placed in the record of the  
17 patient. In any disciplinary proceeding brought pursuant to  
18 this chapter or part II of chapter 455, it shall be presumed  
19 as a matter of law that treatment was rendered by the dentist  
20 of record unless otherwise noted on the patient record  
21 pursuant to this section. The dentist of record and any other  
22 treating dentist are subject to discipline pursuant to this  
23 chapter or part II of chapter 455 for treatment rendered the  
24 patient and performed in violation of such chapter. One of the  
25 purposes of this section is to ensure that the responsibility  
26 for each patient is assigned to one dentist in a multidentist  
27 practice of any nature and to assign primary responsibility to  
28 the dentist for treatment rendered by a dental hygienist or  
29 assistant under her or his supervision. This section shall not  
30 be construed to assign any responsibility to a dentist of  
31 record for treatment rendered pursuant to a proper referral to

1 another dentist not in practice with the dentist of record or  
2 to prohibit a patient from voluntarily selecting a new dentist  
3 without permission of the dentist of record.

4 Section 65. Subsection (1) of section 466.022, Florida  
5 Statutes, is amended to read:

6 466.022 Peer review; records; immunity.--

7 (1) The Legislature finds that effective peer review  
8 of consumer complaints by professional associations of  
9 dentists is a valuable service to the public. In performing  
10 such service, any member of a peer review organization or  
11 committee shall, pursuant to s. 466.028(1)(f), report to the  
12 department the name of any licensee who he or she believes has  
13 violated this chapter. Any such peer review committee member  
14 shall be afforded the privileges and immunities of any other  
15 complainant or witness which are provided by s.  
16 455.621~~455.225~~(11). Furthermore, a professional organization  
17 or association of dentists which sponsors, sanctions, or  
18 otherwise operates or participates in peer review activities  
19 is hereby afforded the same privileges and immunities afforded  
20 to any member of a duly constituted medical review committee  
21 by s. 766.101(3).

22 Section 66. Paragraph (aa) of subsection (1) and  
23 subsections (6) and (7) of section 466.028, Florida Statutes,  
24 are amended to read:

25 466.028 Grounds for disciplinary action; action by the  
26 board.--

27 (1) The following acts shall constitute grounds for  
28 which the disciplinary actions specified in subsection (2) may  
29 be taken:

30 (aa) The violation or the repeated violation of this  
31 chapter, part II of chapter 455, or any rule promulgated

1 pursuant to part II of chapter 455 or this chapter; the  
2 violation of a lawful order of the board or department  
3 previously entered in a disciplinary hearing; or failure to  
4 comply with a lawfully issued subpoena of the board or  
5 department.

6 (6) Upon the department's receipt from an insurer or  
7 self-insurer of a report of a closed claim against a dentist  
8 pursuant to s. 627.912 or upon the receipt from a claimant of  
9 a presuit notice against a dentist pursuant to s. 766.106 the  
10 department shall review each report and determine whether it  
11 potentially involved conduct by a licensee that is subject to  
12 disciplinary action, in which case the provisions of s.  
13 455.621 ~~455.225~~ shall apply. However, if it is reported that  
14 a dentist has had any indemnity paid in excess of \$25,000 in a  
15 judgment or settlement or has had three or more claims for  
16 dental malpractice within the previous 5-year period which  
17 resulted in indemnity being paid, the department shall  
18 investigate the occurrence upon which the claims were based  
19 and determine if action by the department against the dentist  
20 is warranted.

21 (7) Subject to the authority and conditions  
22 established in s. 455.621 ~~455.225~~, the probable cause panel of  
23 the board may recommend that the department seek a specified  
24 penalty in cases in which probable cause has been found and  
25 the panel has directed that an administrative complaint be  
26 filed. If the department seeks a penalty other than that  
27 recommended by the probable cause panel, the department shall  
28 provide the board with a written statement which sets forth  
29 the reasons therefor. Nothing in this subsection shall  
30 preclude a probable cause panel of any other board under the  
31

1 jurisdiction of the department from making similar  
2 recommendations as penalties.

3 Section 67. Subsections (4) and (14) of section  
4 467.003, Florida Statutes, are amended to read:

5 467.003 Definitions.--As used in this chapter, unless  
6 the context otherwise requires:

7 (4) "Department" means the Department of Health  
8 ~~Business and Professional Regulation~~.

9 (14) "Secretary" means the Secretary of Health  
10 ~~Business and Professional Regulation~~.

11 Section 68. Subsection (5) of section 468.1135,  
12 Florida Statutes, is amended to read:

13 468.1135 Board of Speech-Language Pathology and  
14 Audiology.--

15 (5) All provisions of part II of chapter 455 relating  
16 to activities of regulatory boards shall apply to the board.

17 Section 69. Subsection (10) of section 468.1145,  
18 Florida Statutes, is amended to read:

19 468.1145 Fees; establishment; disposition.--

20 (10) All moneys derived from fees and fines imposed  
21 pursuant to this part shall be deposited as required by s.  
22 455.587 ~~215.37~~.

23 Section 70. Subsection (4) of section 468.1185,  
24 Florida Statutes, is amended to read:

25 468.1185 Licensure.--

26 (4) The board may refuse to certify any applicant who  
27 is under investigation in any jurisdiction for an act which  
28 would constitute a violation of this part or part II of  
29 chapter 455 until the investigation is complete and  
30 disciplinary proceedings have been terminated.

31



1           Section 71. Subsection (1) of section 468.1295,  
2 Florida Statutes, is amended to read:

3           468.1295 Disciplinary proceedings.--

4           (1) The following acts constitute grounds for both  
5 disciplinary actions as set forth in subsection (2) and cease  
6 and desist or other related actions by the department as set  
7 forth in s. 455.637 ~~455.228~~:

8           (a) Procuring or attempting to procure a license by  
9 bribery, by fraudulent misrepresentation, or through an error  
10 of the department or the board.

11           (b) Having a license revoked, suspended, or otherwise  
12 acted against, including denial of licensure, by the licensing  
13 authority of another state, territory, or country.

14           (c) Being convicted or found guilty of, or entering a  
15 plea of nolo contendere to, regardless of adjudication, a  
16 crime in any jurisdiction which directly relates to the  
17 practice of speech-language pathology or audiology.

18           (d) Making or filing a report or record which the  
19 licensee knows to be false, intentionally or negligently  
20 failing to file a report or records required by state or  
21 federal law, willfully impeding or obstructing such filing, or  
22 inducing another person to impede or obstruct such filing.  
23 Such report or record shall include only those reports or  
24 records which are signed in one's capacity as a licensed  
25 speech-language pathologist or audiologist.

26           (e) Advertising goods or services in a manner which is  
27 fraudulent, false, deceptive, or misleading in form or  
28 content.

29           (f) Being proven guilty of fraud or deceit or of  
30 negligence, incompetency, or misconduct in the practice of  
31 speech-language pathology or audiology.

1 (g) Violating a lawful order of the board or  
2 department previously entered in a disciplinary hearing, or  
3 failing to comply with a lawfully issued subpoena of the board  
4 or department.

5 (h) Practicing with a revoked, suspended, inactive, or  
6 delinquent license.

7 (i) Using, or causing or promoting the use of, any  
8 advertising matter, promotional literature, testimonial,  
9 guarantee, warranty, label, brand, insignia, or other  
10 representation, however disseminated or published, which is  
11 misleading, deceiving, or untruthful.

12 (j) Showing or demonstrating or, in the event of sale,  
13 delivery of a product unusable or impractical for the purpose  
14 represented or implied by such action.

15 (k) Failing to submit to the board on an annual basis,  
16 or such other basis as may be provided by rule, certification  
17 of testing and calibration of such equipment as designated by  
18 the board and on the form approved by the board.

19 (l) Aiding, assisting, procuring, employing, or  
20 advising any licensee or business entity to practice  
21 speech-language pathology or audiology contrary to this part,  
22 part II of chapter 455, or any rule adopted pursuant thereto.

23 (m) Violating any provision of this part or part II of  
24 chapter 455 or any rule adopted pursuant thereto.

25 (n) Misrepresenting the professional services  
26 available in the fitting, sale, adjustment, service, or repair  
27 of a hearing aid, or using any other term or title which might  
28 connote the availability of professional services when such  
29 use is not accurate.

30 (o) Representing, advertising, or implying that a  
31 hearing aid or its repair is guaranteed without providing full

1 disclosure of the identity of the guarantor; the nature,  
2 extent, and duration of the guarantee; and the existence of  
3 conditions or limitations imposed upon the guarantee.

4 (p) Representing, directly or by implication, that a  
5 hearing aid utilizing bone conduction has certain specified  
6 features, such as the absence of anything in the ear or  
7 leading to the ear, or the like, without disclosing clearly  
8 and conspicuously that the instrument operates on the bone  
9 conduction principle and that in many cases of hearing loss  
10 this type of instrument may not be suitable.

11 (q) Stating or implying that the use of any hearing  
12 aid will improve or preserve hearing or prevent or retard the  
13 progression of a hearing impairment or that it will have any  
14 similar or opposite effect.

15 (r) Making any statement regarding the cure of the  
16 cause of a hearing impairment by the use of a hearing aid.

17 (s) Representing or implying that a hearing aid is or  
18 will be "custom-made," "made to order," or  
19 "prescription-made," or in any other sense specially  
20 fabricated for an individual, when such is not the case.

21 (t) Canvassing from house to house or by telephone,  
22 either in person or by an agent, for the purpose of selling a  
23 hearing aid, except that contacting persons who have evidenced  
24 an interest in hearing aids, or have been referred as in need  
25 of hearing aids, shall not be considered canvassing.

26 (u) Failing to notify the department in writing of a  
27 change in current mailing and place-of-practice address within  
28 30 days after such change.

29 (v) Failing to provide all information as described in  
30 ss. 468.1225(5)(b), 468.1245(1), and 468.1246.

31

1           (w) Exercising influence on a client in such a manner  
2 as to exploit the client for financial gain of the licensee or  
3 of a third party.

4           (x) Practicing or offering to practice beyond the  
5 scope permitted by law or accepting and performing  
6 professional responsibilities the licensee or  
7 certificateholder knows, or has reason to know, the licensee  
8 or certificateholder is not competent to perform.

9           (y) Aiding, assisting, procuring, or employing any  
10 unlicensed person to practice speech-language pathology or  
11 audiology.

12           (z) Delegating or contracting for the performance of  
13 professional responsibilities by a person when the licensee  
14 delegating or contracting for performance of such  
15 responsibilities knows, or has reason to know, such person is  
16 not qualified by training, experience, and authorization to  
17 perform them.

18           (aa) Committing any act upon a patient or client which  
19 would constitute sexual battery or which would constitute  
20 sexual misconduct as defined pursuant to s. 468.1296.

21           (bb) Being unable to practice the profession for which  
22 he or she is licensed or certified under this chapter with  
23 reasonable skill or competence as a result of any mental or  
24 physical condition or by reason of illness, drunkenness, or  
25 use of drugs, narcotics, chemicals, or any other substance. In  
26 enforcing this paragraph, upon a finding by the secretary, his  
27 or her designee, or the board that probable cause exists to  
28 believe that the licensee or certificateholder is unable to  
29 practice the profession because of the reasons stated in this  
30 paragraph, the department shall have the authority to compel a  
31 licensee or certificateholder to submit to a mental or

1 physical examination by a physician, psychologist, clinical  
2 social worker, marriage and family therapist, or mental health  
3 counselor designated by the department or board. If the  
4 licensee or certificateholder refuses to comply with the  
5 department's order directing the examination, such order may  
6 be enforced by filing a petition for enforcement in the  
7 circuit court in the circuit in which the licensee or  
8 certificateholder resides or does business. The department  
9 shall be entitled to the summary procedure provided in s.  
10 51.011. A licensee or certificateholder affected under this  
11 paragraph shall at reasonable intervals be afforded an  
12 opportunity to demonstrate that he or she can resume the  
13 competent practice for which he or she is licensed or  
14 certified with reasonable skill and safety to patients.

15 Section 72. Subsection (4) of section 468.1665,  
16 Florida Statutes, is amended to read:

17 468.1665 Board of Nursing Home Administrators;  
18 membership; appointment; terms.--

19 (4) All provisions of part II of chapter 455 relating  
20 to activities of regulatory boards shall apply.

21 Section 73. Paragraphs (a) and (h) of subsection (1)  
22 of section 468.1755, Florida Statutes, are amended to read:

23 468.1755 Disciplinary proceedings.--

24 (1) The following acts shall constitute grounds for  
25 which the disciplinary actions in subsection (2) may be taken:

26 (a) Violation of any provision of s. ~~455.624~~~~455.227~~(1)  
27 or s. 468.1745(1).

28 (h) A violation or repeated violations of this part,  
29 part II of chapter 455, or any rules promulgated pursuant  
30 thereto.

31

1           Section 74. Section 468.1756, Florida Statutes, is  
2 amended to read:

3           468.1756 Statute of limitations.--An administrative  
4 complaint may only be filed pursuant to s. 455.621 ~~455.225~~ for  
5 an act listed in paragraphs (1)(c)-(p) of s. 468.1755 within 4  
6 years from the time of the incident giving rise to the  
7 complaint, or within 4 years from the time the incident is  
8 discovered or should have been discovered.

9           Section 75. Subsection (5) of section 468.205, Florida  
10 Statutes, is amended to read:

11           468.205 Board of Occupational Therapy Practice.--  
12           (5) All provisions of part II of chapter 455 relating  
13 to activities of the board shall apply.

14           Section 76. Subsection (1) of section 468.219, Florida  
15 Statutes, is amended to read:

16           468.219 Renewal of license; continuing education.--  
17           (1) Licenses issued under this part are subject to  
18 biennial renewal as provided in s. 455.521 ~~455.203~~.

19           Section 77. Subsection (3) of section 468.364, Florida  
20 Statutes, is amended to read:

21           468.364 Fees; establishment; disposition.--  
22           (3) All moneys collected by the department under this  
23 part shall be deposited as required by s. 455.587 ~~215.37~~.

24           Section 78. Paragraph (j) of subsection (1) of section  
25 468.365, Florida Statutes, is amended to read:

26           468.365 Disciplinary grounds and actions.--  
27           (1) The following acts constitute grounds for which  
28 the disciplinary actions in subsection (2) may be taken:

29           (j) Violation of any rule adopted pursuant to this  
30 part or part II of chapter 455.

31

1           Section 79. Paragraph (b) of subsection (1) of section  
2 468.402, Florida Statutes, is amended to read:

3           468.402 Duties of the department; authority to issue  
4 and revoke license; adoption of rules.--

5           (1) The department may take any one or more of the  
6 actions specified in subsection (5) against any person who  
7 has:

8           (b) Violated any provision of this part, part I of  
9 chapter 455, any lawful disciplinary order of the department,  
10 or any rule of the department.

11           Section 80. Subsection (3) of section 468.4315,  
12 Florida Statutes, is amended to read:

13           468.4315 Regulatory Council of Community Association  
14 Managers.--

15           (3) To the extent the council is authorized to  
16 exercise functions otherwise exercised by a board pursuant to  
17 part I of chapter 455, the provisions of part I of chapter 455  
18 and s. 20.165 relating to regulatory boards shall apply,  
19 including, but not limited to, provisions relating to board  
20 rules and the accountability and liability of board members.  
21 All proceedings and actions of the council are subject to the  
22 provisions of chapter 120. In addition, the provisions of  
23 part I of chapter 455 and s. 20.165 shall apply to the  
24 department in carrying out the duties and authorities  
25 conferred upon the department by this part.

26           Section 81. Paragraphs (c) and (d) of subsection (2)  
27 of section 468.453, Florida Statutes, are amended to read:

28           468.453 Licensure required; qualifications;  
29 examination; bond.--

30           (2) A person shall be licensed as an athlete agent if  
31 the applicant:

1 (c) Passes an examination provided by the department  
2 which tests the applicant's proficiency to practice as an  
3 athlete agent, including, but not limited to, knowledge of the  
4 laws and rules of this state relating to athlete agents, this  
5 part, and part I of chapter 455.

6 (d) Has completed the application form and remitted an  
7 application fee not to exceed \$500, an examination fee not to  
8 exceed the actual cost for the examination plus \$500, an  
9 active licensure fee not to exceed \$2,000, and all other  
10 applicable fees provided for in this part or in part I of  
11 chapter 455.

12 Section 82. Paragraph (a) of subsection (1) of section  
13 468.456, Florida Statutes, is amended to read:

14 468.456 Prohibited acts.--

15 (1) The following acts shall be grounds for the  
16 disciplinary actions provided for in subsection (3):

17 (a) A violation of any law relating to the practice as  
18 an athlete agent including, but not limited to, violations of  
19 this part and part I of chapter 455 and any rules promulgated  
20 thereunder.

21 Section 83. Subsection (1) of section 468.4571,  
22 Florida Statutes, is amended to read:

23 468.4571 Saving clauses.--

24 (1) An athlete agent registration valid on October 1,  
25 1995, shall remain in full force and effect until the  
26 expiration of the registration. Upon expiration of such valid  
27 registration, the registrant shall be entitled to licensure  
28 pursuant to this part, provided that any discipline in effect  
29 pursuant to that registration shall be continued as discipline  
30 under the new license. All regulation of athlete agents and  
31 all licenses or permits for athlete agents shall be applied



1 for and renewed in accordance with this part and part I of  
2 chapter 455.

3 Section 84. Section 468.506, Florida Statutes, is  
4 amended to read:

5 468.506 Dietetics and Nutrition Practice  
6 Council.--There is created the Dietetics and Nutrition  
7 Practice Council under the supervision of the board. The  
8 council shall consist of four persons licensed under this part  
9 and one consumer who is 60 years of age or older. Council  
10 members shall be appointed by the board. Licensed members  
11 shall be appointed based on the proportion of licensees within  
12 each of the respective disciplines. Members shall be  
13 appointed for 4-year staggered terms. In order to be eligible  
14 for appointment, each licensed member must have been a  
15 licensee under this part for at least 3 years prior to his or  
16 her appointment. No council member shall serve more than two  
17 successive terms. The board may delegate such powers and  
18 duties to the council as it may deem proper to carry out the  
19 operations and procedures necessary to effectuate the  
20 provisions of this part. However, the powers and duties  
21 delegated to the council by the board must encompass both  
22 dietetics and nutrition practice and nutrition counseling. Any  
23 time there is a vacancy on the council, any professional  
24 association composed of persons licensed under this part may  
25 recommend licensees to fill the vacancy to the board in a  
26 number at least twice the number of vacancies to be filled,  
27 and the board may appoint from the submitted list, in its  
28 discretion, any of those persons so recommended. Any  
29 professional association composed of persons licensed under  
30 this part may file an appeal regarding a council appointment  
31 with the director of the agency, whose decision shall be

1 final. The board shall fix council members' compensation and  
2 pay their expenses in the same manner as provided in s.  
3 455.534 ~~455.207~~.

4 Section 85. Section 468.507, Florida Statutes, is  
5 amended to read:

6 468.507 Authority to adopt rules.--The board may adopt  
7 such rules not inconsistent with law as may be necessary to  
8 carry out the duties and authority conferred upon the board by  
9 this part and part II of chapter 455. The powers and duties  
10 of the board as set forth in this part shall in no way limit  
11 or interfere with the powers and duties of the board as set  
12 forth in chapter 458. All powers and duties of the board set  
13 forth in this part shall be supplemental and additional powers  
14 and duties to those conferred upon the board by chapter 458.

15 Section 86. Subsection (3) of section 468.513, Florida  
16 Statutes, is amended to read:

17 468.513 Dietitian/nutritionist; licensure by  
18 endorsement.--

19 (3) The agency shall not issue a license by  
20 endorsement under this section to any applicant who is under  
21 investigation in any jurisdiction for any act which would  
22 constitute a violation of this part or part II of chapter 455  
23 until such time as the investigation is complete and  
24 disciplinary proceedings have been terminated.

25 Section 87. Paragraph (a) of subsection (1) of section  
26 468.518, Florida Statutes, is amended to read:

27 468.518 Grounds for disciplinary action.--

28 (1) The following acts constitute grounds for which  
29 the disciplinary actions in subsection (2) may be taken:

30 (a) Violating any provision of this part, any board or  
31 agency rule adopted pursuant thereto, or any lawful order of

1 the board or agency previously entered in a disciplinary  
2 hearing held pursuant to this part, or failing to comply with  
3 a lawfully issued subpoena of the agency. The provisions of  
4 this paragraph also apply to any order or subpoena previously  
5 issued by the Department of Health ~~Business and Professional~~  
6 ~~Regulation~~ during its period of regulatory control over this  
7 part.

8 Section 88. Section 468.523, Florida Statutes, is  
9 amended to read:

10 468.523 Applicability of s. 20.165 and pt. I of ch.  
11 455.--All provisions of s. 20.165 and part I of chapter 455  
12 relating to activities of regulatory boards shall apply.

13 Section 89. Subsection (3) of section 468.526, Florida  
14 Statutes, is amended to read:

15 468.526 License required; fees.--

16 (3) Each employee leasing company and employee leasing  
17 company group licensee shall pay to the department upon the  
18 initial issuance of a license and upon each renewal thereafter  
19 a license fee not to exceed \$2,500 to be established by the  
20 board. In addition to the license fee, the board shall  
21 establish an annual assessment for each employee leasing  
22 company and each employee leasing company group sufficient to  
23 cover all costs for regulation of the profession pursuant to  
24 this chapter, part I of chapter 455, and any other applicable  
25 provisions of law. The annual assessment shall:

26 (a) Be due and payable upon initial licensure and  
27 subsequent renewals thereof and 1 year before the expiration  
28 of any licensure period; and

29 (b) Be based on a fixed percentage, variable classes,  
30 or a combination of both, as determined by the board, of gross  
31 Florida payroll for employees leased to clients by the

1 applicant or licensee during the period beginning five  
2 quarters before and ending one quarter before each assessment.  
3 It is the intent of the Legislature that the greater weight of  
4 total fees for licensure and assessments should be on larger  
5 companies and groups.

6 Section 90. Paragraph (i) of subsection (1) of section  
7 468.532, Florida Statutes, is amended to read:

8 468.532 Discipline.--

9 (1) The following constitute grounds for which  
10 disciplinary action against a licensee may be taken by the  
11 board:

12 (i) Violating any provision of this part or any lawful  
13 order or rule issued under the provisions of this part or part  
14 I of chapter 455.

15 Section 91. Subsection (1) of section 468.535, Florida  
16 Statutes, is amended to read:

17 468.535 Investigations; audits; review.--

18 (1) The department may make investigations, audits, or  
19 reviews within or outside this state as it deems necessary:

20 (a) To determine whether a person or company has  
21 violated or is in danger of violating any provision of this  
22 part, part I of chapter 455, or any rule or order thereunder;  
23 or

24 (b) To aid in the enforcement of this part or part I  
25 of chapter 455.

26 Section 92. Subsections (7) and (9) of section  
27 468.701, Florida Statutes, are amended to read:

28 468.701 Definitions.--As used in this part, the term:

29 (7) "Department" means the Department of Health  
30 ~~Business and Professional Regulation.~~

31

1           (9) "Secretary" means the Secretary of Health ~~Business~~  
2 ~~and Professional Regulation~~.

3           Section 93. Subsections (2) and (4) of section  
4 468.703, Florida Statutes, are amended to read:

5           468.703 Council of Athletic Training.--

6           (2) Four members of the council shall be licensed  
7 athletic trainers. One member of the council shall be a  
8 physician licensed under chapter 458 or chapter 459. One  
9 member of the council shall be a physician licensed under  
10 chapter 460 and certified in the specialty of sports medicine  
11 by the Chiropractic Council on Sports Medicine. One member of  
12 the council shall be a resident of this state who has never  
13 worked as an athletic trainer, who has no financial interest  
14 in the practice of athletic training, and who has never been a  
15 licensed health care practitioner as defined in s.

16 455.501~~455.01~~(4). Members of the council shall serve staggered  
17 4-year terms as determined by rule of the department; however,  
18 no member may serve more than two consecutive terms.

19           (4) Members of the council shall be entitled to  
20 compensation and reimbursement for expenses in the same manner  
21 as board members are compensated and reimbursed under s.  
22 455.534 ~~455.207~~.

23           Section 94. Subsection (2) of section 468.707, Florida  
24 Statutes, is amended to read:

25           468.707 Licensure by examination; requirements.--

26           (2) Pursuant to the requirements of s. 455.604  
27 ~~455.2228~~, each applicant shall complete a continuing education  
28 course on human immunodeficiency virus and acquired immune  
29 deficiency syndrome as part of initial licensure.

30           Section 95. Subsections (1) and (3) of section  
31 468.711, Florida Statutes, are amended to read:

1           468.711 Renewal of license; continuing education.--

2           (1) The department shall renew a license upon receipt  
3 of the renewal application and fee, provided the applicant is  
4 in compliance with the provisions of this part, part II of  
5 chapter 455, and rules promulgated pursuant thereto.

6           (3) Pursuant to the requirements of s. 455.604  
7 ~~455.2228~~, each licensee shall complete a continuing education  
8 course on human immunodeficiency virus and acquired immune  
9 deficiency syndrome as part of biennial relicensure.

10           Section 96. Paragraph (a) of subsection (1) and  
11 subsection (2) of section 468.719, Florida Statutes, are  
12 amended to read:

13           468.719 Disciplinary actions.--

14           (1) The following acts shall be grounds for  
15 disciplinary actions provided for in subsection (2):

16           (a) A violation of any law relating to the practice of  
17 athletic training, including, but not limited to, any  
18 violation of this part, s. 455.624 ~~455.227~~, or any rule  
19 adopted pursuant thereto.

20           (2) When the department finds any person guilty of any  
21 of the acts set forth in subsection (1), the department may  
22 enter an order imposing one or more of the penalties provided  
23 in s. 455.624 ~~455.227~~.

24           Section 97. Subsection (4) of section 468.801, Florida  
25 Statutes, is amended to read:

26           468.801 Board of Orthotists and Prosthetists;  
27 appointment; membership; terms; headquarters.--

28           (4) The provisions of part II of chapter 455 relating  
29 to activities of regulatory boards apply to the board.

30           Section 98. Subsections (1) and (2) of section  
31 468.811, Florida Statutes, are amended to read:

1           468.811 Disciplinary proceedings.--

2           (1) The following acts are grounds for disciplinary  
3 action against a licensee and the issuance of cease and desist  
4 orders or other related action by the department, pursuant to  
5 s. 455.624 ~~455.227~~, against any person who engages in or aids  
6 in a violation.

7           (a) Attempting to procure a license by fraudulent  
8 misrepresentation.

9           (b) Having a license to practice orthotics,  
10 prosthetics, or pedorthics revoked, suspended, or otherwise  
11 acted against, including the denial of licensure in another  
12 jurisdiction.

13           (c) Being convicted or found guilty of or pleading  
14 nolo contendere to, regardless of adjudication, in any  
15 jurisdiction, a crime that directly relates to the practice of  
16 orthotics, prosthetics, or pedorthics, including violations of  
17 federal laws or regulations regarding orthotics, prosthetics,  
18 or pedorthics.

19           (d) Filing a report or record that the licensee knows  
20 is false, intentionally or negligently failing to file a  
21 report or record required by state or federal law, willfully  
22 impeding or obstructing such filing, or inducing another  
23 person to impede or obstruct such filing. Such reports or  
24 records include only reports or records that are signed in a  
25 person's capacity as a licensee under this act.

26           (e) Advertising goods or services in a fraudulent,  
27 false, deceptive, or misleading manner.

28           (f) Violation of this act or part II of chapter 455,  
29 or any rules adopted thereunder.

30           (g) Violation of an order of the board, agency, or  
31 department previously entered in a disciplinary hearing or

1 failure to comply with a subpoena issued by the board, agency,  
2 or department.

3 (h) Practicing with a revoked, suspended, or inactive  
4 license.

5 (i) Gross or repeated malpractice or the failure to  
6 deliver orthotic, prosthetic, or pedorthic services with that  
7 level of care and skill which is recognized by a reasonably  
8 prudent licensed practitioner with similar professional  
9 training as being acceptable under similar conditions and  
10 circumstances.

11 (j) Failing to provide written notice of any  
12 applicable warranty for an orthosis, prosthesis, or pedorthic  
13 device that is provided to a patient.

14 (2) The board may enter an order imposing one or more  
15 of the penalties in s. ~~455.624~~455.227(2) against any person  
16 who violates any provision of subsection (1).

17 Section 99. Paragraph (b) of subsection (1) of section  
18 469.009, Florida Statutes, is amended to read:

19 469.009 License revocation, suspension, and denial of  
20 issuance or renewal.--

21 (1) The department may revoke, suspend, or deny the  
22 issuance or renewal of a license; reprimand, censure, or place  
23 on probation any contractor, consultant, financially  
24 responsible officer, or business organization; require  
25 financial restitution to a consumer; impose an administrative  
26 fine not to exceed \$5,000 per violation; require continuing  
27 education; or assess costs associated with any investigation  
28 and prosecution if the contractor or consultant, or business  
29 organization or officer or agent thereof, is found guilty of  
30 any of the following acts:

31 (b) Violating any provision of part I of chapter 455.



1  
2 For the purposes of this subsection, construction is  
3 considered to be commenced when the contract is executed and  
4 the contractor has accepted funds from the customer or lender.

5 Section 100. Subsection (4) of section 470.003,  
6 Florida Statutes, is amended to read:

7 470.003 Board of Funeral Directors and Embalmers;  
8 membership; appointment; terms.--

9 (4) All provisions of part I of chapter 455 and s.  
10 20.165 relating to activities of regulatory boards shall  
11 apply.

12 Section 101. Paragraph (h) of subsection (1) of  
13 section 470.036, Florida Statutes, is amended to read:

14 470.036 Disciplinary proceedings.--

15 (1) The following acts constitute grounds for which  
16 the disciplinary actions in subsection (2) may be taken:

17 (h) A violation or repeated violation of this chapter  
18 or of part I of chapter 455 and any rules promulgated pursuant  
19 thereto.

20 Section 102. Section 471.008, Florida Statutes, is  
21 amended to read:

22 471.008 Rules of the board.--The board may adopt such  
23 rules not inconsistent with law as may be necessary to carry  
24 out the duties and authority conferred upon the board by this  
25 chapter or part I of chapter 455.

26 Section 103. Subsection (4) of section 471.015,  
27 Florida Statutes, is amended to read:

28 471.015 Licensure.--

29 (4) The department shall not issue a license by  
30 endorsement to any applicant who is under investigation in  
31 another state for any act that would constitute a violation of

1 ss. 471.001-471.037 or of part I of chapter 455 until such  
2 time as the investigation is complete and disciplinary  
3 proceedings have been terminated.

4 Section 104. Paragraphs (c) and (h) of subsection (1)  
5 of section 471.033, Florida Statutes, are amended to read:

6 471.033 Disciplinary proceedings.--

7 (1) The following acts constitute grounds for which  
8 the disciplinary actions in subsection (3) may be taken:

9 (c) Having a license to practice engineering revoked,  
10 suspended, or otherwise acted against, including the denial of  
11 licensure, by the licensing authority of another state,  
12 territory, or country, for any act that would constitute a  
13 violation of this chapter or part I of chapter 455.

14 (h) Violating part I of chapter 455.

15 Section 105. Subsections (4) and (5) of section  
16 471.038, Florida Statutes, are amended to read:

17 471.038 Florida Engineers Management Corporation.--

18 (4) The Florida Engineers Management Corporation is  
19 created to provide administrative, investigative, and  
20 prosecutorial services to the board in accordance with the  
21 provisions of part I of chapter 455 and this chapter. The  
22 corporation may hire staff as necessary to carry out its  
23 functions. Such staff are not public employees for the  
24 purposes of chapter 110 or chapter 112. The provisions of s.  
25 768.28 apply to the corporation, which is deemed to be a  
26 corporation primarily acting as an instrumentality of the  
27 state, but which is not an agency within the meaning of s.  
28 20.03(11). The corporation shall:

29 (a) Be a Florida corporation not for profit,  
30 incorporated under the provisions of chapter 617.

31

1 (b) Provide administrative, investigative, and  
2 prosecutorial services to the board in accordance with the  
3 provisions of part I of chapter 455 and this chapter.

4 (c) Receive, hold, and administer property and make  
5 expenditures for the benefit of the board.

6 (d) Be approved by the board and the department to  
7 operate for the benefit of the board and in the best interest  
8 of the state.

9 (e) Operate under a fiscal year that begins on July 1  
10 of each year and ends on June 30 of the following year.

11 (f) Have a seven-member board of directors, five of  
12 whom are to be appointed by the board and must be registrants  
13 regulated by the board and two of whom are to be appointed by  
14 the secretary and must be laypersons not regulated by the  
15 board. The corporation shall select its officers in accordance  
16 with its bylaws. The members of the board of directors may be  
17 removed by the board, with the concurrence of the department,  
18 for the same reasons that a board member may be removed.

19 (g) Operate under a written contract with the  
20 department which is approved by the board and renewed  
21 annually. The initial contract must be entered into no later  
22 than March 1, 1998. The contract must provide for:

23 1. Approval of the articles of incorporation and  
24 bylaws of the corporation by the department and the board.

25 2. Submission by the corporation of an annual budget  
26 that complies with board rules for approval by the board and  
27 the department.

28 3. Annual certification by the board and the  
29 department that the corporation is complying with the terms of  
30 the contract in a manner consistent with the goals and  
31

1 purposes of the board and in the best interest of the state.  
2 This certification must be reported in the board's minutes.

3 4. Employment by the department of a contract  
4 administrator to actively supervise the administrative,  
5 investigative, and prosecutorial activities of the corporation  
6 to ensure compliance with the contract and the provisions of  
7 part I of chapter 455 and this chapter and to act as a liaison  
8 for the department, the board, and the corporation to ensure  
9 the effective operation of the corporation.

10 5. Funding of the corporation through appropriations  
11 allocated to the regulation of professional engineers from the  
12 Professional Regulation Trust Fund.

13 6. The reversion to the board, or the state if the  
14 board ceases to exist, of moneys and property held in trust by  
15 the corporation for the benefit of the board, if the  
16 corporation is no longer approved to operate for the board or  
17 the board ceases to exist.

18 7. The securing and maintaining by the corporation,  
19 during the term of the contract and for all acts performed  
20 during the term of the contract, of all liability insurance  
21 coverages in an amount to be approved by the department to  
22 defend, indemnify, and hold harmless the corporation and its  
23 officers and employees, the department and its employees, and  
24 the state against all claims arising from state and federal  
25 laws. Such insurance coverage must be with insurers qualified  
26 and doing business in the state. The corporation must provide  
27 proof of insurance to the department. The department and its  
28 employees and the state are exempt from and are not liable for  
29 any sum of money which represents a deductible, which sums  
30 shall be the sole responsibility of the corporation. Violation  
31

1 of this subparagraph shall be grounds for terminating the  
2 contract.

3 (h) Provide for an annual financial and compliance  
4 audit of its financial accounts and records by an independent  
5 certified public accountant in conjunction with the Auditor  
6 General. The annual audit report must be submitted to the  
7 board and the department for review and approval. Copies of  
8 the audit must be submitted to the secretary and the  
9 Legislature together with any other information requested by  
10 the secretary, the board, or the Legislature.

11 (i) Submit to the secretary, the board, and the  
12 Legislature, on or before January 1 of each year, a report on  
13 the status of the corporation which includes, but is not  
14 limited to, information concerning the programs and funds that  
15 have been transferred to the corporation. The report must  
16 include: the number of license applications received; the  
17 number approved and denied and the number of licenses issued;  
18 the number of examinations administered and the number of  
19 applicants who passed or failed the examination; the number of  
20 complaints received; the number determined to be legally  
21 sufficient; the number dismissed; the number determined to  
22 have probable cause; the number of administrative complaints  
23 issued and the status of the complaints; and the number and  
24 nature of disciplinary actions taken by the board.

25 (5) The corporation may not exercise any authority  
26 specifically assigned to the board under part I of chapter 455  
27 or this chapter, including determining probable cause to  
28 pursue disciplinary action against a licensee, taking final  
29 action on license applications or in disciplinary cases, or  
30 adopting administrative rules under chapter 120.

31

1           Section 106. Subsection (4) of section 472.015,  
2 Florida Statutes, is amended to read:

3           472.015 Licensure.--

4           (4) The department shall not issue a license by  
5 endorsement to any applicant who is under investigation in  
6 another state for any act that would constitute a violation of  
7 ss. 472.001-472.041 or part I of chapter 455 until such time  
8 as the investigation is complete and disciplinary proceedings  
9 have been terminated.

10          Section 107. Subsection (1) of section 473.3035,  
11 Florida Statutes, is amended to read:

12          473.3035 Division of Certified Public Accounting.--

13          (1) All services concerning this chapter, including,  
14 but not limited to, recordkeeping services, examination  
15 services, legal services, and investigative services, and  
16 those services in part I of chapter 455 necessary to perform  
17 the duties of this chapter shall be provided by the Division  
18 of Certified Public Accounting. The board may, by majority  
19 vote, delegate a duty or duties to the appropriate division  
20 within the department. The board may, by majority vote,  
21 rescind any such delegation of duties at any time.

22          Section 108. Subsection (5) of section 473.308,  
23 Florida Statutes, is amended to read:

24          473.308 Licensure.--

25          (5) The board may refuse to certify for licensure any  
26 applicant who is under investigation in another state for any  
27 act which would constitute a violation of this act or part I  
28 of chapter 455, until such time as the investigation is  
29 complete and disciplinary proceedings have been terminated.

30          Section 109. Subsection (1) of section 473.311,  
31 Florida Statutes, is amended to read:

1           473.311 Renewal of license.--

2           (1) The department shall renew a license upon receipt  
3 of the renewal application and fee and upon certification by  
4 the board that the licensee has satisfactorily completed the  
5 continuing education requirements of s. 473.312 and has passed  
6 an examination approved by the board on part I of chapter 455  
7 and this chapter and the related administrative rules.

8           Section 110. Paragraph (h) of subsection (1) of  
9 section 473.323, Florida Statutes, is amended to read:

10          473.323 Disciplinary proceedings.--

11          (1) The following acts constitute grounds for which  
12 the disciplinary actions in subsection (3) may be taken:

13          (h) Violation of any rule adopted pursuant to this  
14 chapter or part I of chapter 455.

15          Section 111. Subsection (3) of section 474.204,  
16 Florida Statutes, is amended to read:

17          474.204 Board of Veterinary Medicine.--

18          (3) All provisions of part I of chapter 455 relating  
19 to activities of regulatory boards shall apply.

20          Section 112. Paragraph (f) of subsection (1) of  
21 section 474.214, Florida Statutes, is amended to read:

22          474.214 Disciplinary proceedings.--

23          (1) The following acts shall constitute grounds for  
24 which the disciplinary actions in subsection (2) may be taken:

25          (f) Violating any provision of this chapter or part I  
26 of chapter 455, a rule of the board or department, or a lawful  
27 order of the board or department previously entered in a  
28 disciplinary hearing, or failing to comply with a lawfully  
29 issued subpoena of the department.

30          Section 113. Section 474.2145, Florida Statutes, is  
31 amended to read:

1           474.2145 Subpoena of certain records.--Notwithstanding  
2 any provision of law to the contrary ~~the provisions of s.~~  
3 ~~455.241~~, the department may issue subpoenas duces tecum  
4 requiring the names and addresses of some or all the clients  
5 of a licensed veterinarian against whom a complaint has been  
6 filed pursuant to s. 455.225 when the information has been  
7 deemed necessary and relevant to the investigation as  
8 determined by the secretary of the department.

9           Section 114. Subsection (1) of section 475.021,  
10 Florida Statutes, is amended to read:

11           475.021 Division of Real Estate.--

12           (1) All services concerning this chapter, including,  
13 but not limited to, recordkeeping services, examination  
14 services, legal services, and investigative services, and  
15 those services in part I of chapter 455 necessary to perform  
16 the duties of this chapter shall be provided by the Division  
17 of Real Estate. The commission may, by majority vote,  
18 delegate a duty or duties to the appropriate division within  
19 the department. The commission may, by majority vote, rescind  
20 any such delegation of duties at any time.

21           Section 115. Subsection (3) of section 475.181,  
22 Florida Statutes, is amended to read:

23           475.181 Licensure.--

24           (3) The department may not issue a license to any  
25 applicant who is under investigation in any other state,  
26 territory, or jurisdiction of the United States or any foreign  
27 national jurisdiction for any act that would constitute a  
28 violation of this part or part I of chapter 455 until such  
29 time as the investigation is complete and disciplinary  
30 proceedings have been terminated.

31



1           Section 116. Paragraph (e) of subsection (1) of  
2 section 475.25, Florida Statutes, is amended to read:

3           475.25 Discipline.--

4           (1) The commission may deny an application for  
5 licensure, registration, or permit, or renewal thereof; may  
6 place a licensee, registrant, or permittee on probation; may  
7 suspend a license, registration, or permit for a period not  
8 exceeding 10 years; may revoke a license, registration, or  
9 permit; may impose an administrative fine not to exceed \$1,000  
10 for each count or separate offense; and may issue a reprimand,  
11 and any or all of the foregoing, if it finds that the  
12 licensee, registrant, permittee, or applicant:

13           (e) Has violated any of the provisions of this chapter  
14 or any lawful order or rule made or issued under the  
15 provisions of this chapter or part I of chapter 455.

16           Section 117. Subsection (4) of section 475.624,  
17 Florida Statutes, is amended to read:

18           475.624 Discipline.--The board may deny an application  
19 for registration, licensure, or certification; investigate the  
20 actions of any appraiser registered, licensed, or certified  
21 under this section; and may reprimand, fine, revoke, or  
22 suspend, for a period not to exceed 10 years, the  
23 registration, license, or certification of any such appraiser,  
24 or place any such appraiser on probation if it finds that the  
25 registrant, licensee, or certificateholder:

26           (4) Has violated any of the provisions of this section  
27 or any lawful order or rule issued under the provisions of  
28 this section or part I of chapter 455.

29           Section 118. Paragraph (i) of subsection (1) of  
30 section 476.204, Florida Statutes, is amended to read:

31           476.204 Penalties.--

1           (1) It is unlawful for any person to:  
2           (i) Violate or refuse to comply with any provision of  
3 this chapter or part I of chapter 455 or a rule or final order  
4 of the board.

5           Section 119. Paragraph (i) of subsection (1) of  
6 section 477.029, Florida Statutes, is amended to read:

7           477.029 Penalty.--

8           (1) It is unlawful for any person to:  
9           (i) Violate or refuse to comply with any provision of  
10 this chapter or part I of chapter 455 or a rule or final order  
11 of the board or the department.

12           Section 120. Subsection (5) of section 480.044,  
13 Florida Statutes, is amended to read:

14           480.044 Fees; disposition.--

15           (5) All moneys collected by the department from fees  
16 authorized by this act shall be paid into the Medical Quality  
17 Assurance Professional Regulation Trust Fund in the department  
18 and shall be applied in accordance with the provisions of ss.  
19 455.587 ~~215.37~~ and ~~455.219~~. The Legislature may appropriate  
20 any excess moneys from this fund to the General Revenue Fund.

21           Section 121. Section 481.2055, Florida Statutes, is  
22 amended to read:

23           481.2055 Authority to make rules.--The board may adopt  
24 such rules, not inconsistent with law, as may be necessary to  
25 carry out the duties and authority conferred upon the board by  
26 this part and part I of chapter 455.

27           Section 122. Subsection (5) of section 481.213,  
28 Florida Statutes, is amended to read:

29           481.213 Licensure.--

30           (5) The board may refuse to certify any applicant who  
31 is under investigation in any jurisdiction for any act which

1 would constitute a violation of this part or of part I of  
2 chapter 455 until such time as the investigation is complete  
3 and disciplinary proceedings have been terminated.

4 Section 123. Paragraphs (a) and (c) of subsection (1)  
5 of section 481.225, Florida Statutes, are amended to read:

6 481.225 Disciplinary proceedings against registered  
7 architects.--

8 (1) The following acts constitute grounds for which  
9 the disciplinary actions in subsection (3) may be taken:

10 (a) Violating any provision of s. 455.227(1), s.  
11 481.221, or s. 481.223, or any rule of the board or department  
12 lawfully adopted pursuant to this part or part I of chapter  
13 455.

14 (c) Having a license to practice architecture revoked,  
15 suspended, or otherwise acted against, including the denial of  
16 licensure, by the licensing authority of another state,  
17 territory, or country, for any act that would constitute a  
18 violation of this part or of part I of chapter 455.

19 Section 124. Paragraph (b) of subsection (1) of  
20 section 481.2251, Florida Statutes, is amended to read:

21 481.2251 Disciplinary proceedings against registered  
22 interior designers.--

23 (1) The following acts constitute grounds for which  
24 the disciplinary actions specified in subsection (2) may be  
25 taken:

26 (b) Having a license to practice interior design  
27 revoked, suspended, or otherwise acted against, including the  
28 denial of licensure, by the licensing authority of another  
29 jurisdiction for any act which would constitute a violation of  
30 this part or of part I of chapter 455;

31

1           Section 125. Section 481.306, Florida Statutes, is  
2 amended to read:

3           481.306 Authority to make rules.--The board may adopt  
4 such rules, not inconsistent with law, as may be necessary to  
5 carry out the duties and authority conferred upon the board by  
6 this chapter and part I of chapter 455.

7           Section 126. Subsection (5) of section 481.311,  
8 Florida Statutes, is amended to read:

9           481.311 Licensure.--

10          (5) The board may refuse to certify any applicant who  
11 is under investigation in any jurisdiction for any act which  
12 would constitute a violation of this act or of part I of  
13 chapter 455, until the investigation is complete and  
14 disciplinary proceedings have been terminated.

15          Section 127. Paragraph (h) of subsection (1) of  
16 section 481.325, Florida Statutes, is amended to read:

17          481.325 Disciplinary proceedings.--

18          (1) The following acts constitute grounds for which  
19 the disciplinary actions in subsection (3) may be taken:

20          (h) Violation of any rule adopted pursuant to this  
21 part or part I of chapter 455.

22          Section 128. Subsection (5) of section 483.805,  
23 Florida Statutes, is amended to read:

24          483.805 Board of Clinical Laboratory Personnel.--

25          (5) All provisions of part II of chapter 455 relating  
26 to activities of regulatory boards shall apply to the board.

27          Section 129. Subsection (10) of section 483.807,  
28 Florida Statutes, is amended to read:

29          483.807 Fees; establishment; disposition.--

30          (10) All fees shall be established, collected, and  
31 deposited in accordance with s. 455.587 ~~455.219~~.

1           Section 130. Paragraph (j) of subsection (4) and  
2 paragraph (b) of subsection (5) of section 468.901, Florida  
3 Statutes, are amended to read:

4           483.901 Medical physicists; definitions; licensure.--

5           (4) COUNCIL.--The Advisory Council of Medical  
6 Physicists is created in the Department of Health to advise  
7 the department in regulating the practice of medical physics  
8 in this state.

9           (j) A council member may be removed from the council  
10 if the member:

11           1. Did not have the required qualifications at the  
12 time of appointment;

13           2. Does not maintain the required qualifications while  
14 serving on the council; or

15           3. Fails to attend the regularly scheduled council  
16 meetings in a calendar year as required by s. 455.534 ~~455.207~~.

17           (5) POWERS OF COUNCIL.--The council shall:

18           (b) Recommend practice standards for the practice of  
19 medical physics which are consistent with the Guidelines for  
20 Ethical Practice for Medical Physicists prepared by the  
21 American Association of Physicists in Medicine and  
22 disciplinary guidelines adopted under s. 455.627 ~~455.2273~~.

23           Section 131. Subsection (1) of section 484.002,  
24 Florida Statutes, is amended to read:

25           484.002 Definitions.--As used in this part:

26           (1) "Department" means the Department of Health  
27 ~~Business and Professional Regulation~~.

28           Section 132. Subsection (1) of section 484.003,  
29 Florida Statutes, is amended to read:

30           484.003 Board of Opticianry; membership; appointment;  
31 terms.--

1           (1) The Board of Opticianry is created within the  
2 Department of Health ~~Business and Professional Regulation~~ and  
3 shall consist of seven members to be appointed by the Governor  
4 and confirmed by the Senate.

5           Section 133. Subsection (1) of section 484.014,  
6 Florida Statutes, is amended to read:

7           484.014 Disciplinary actions.--

8           (1) The following acts relating to the practice of  
9 opticianry shall be grounds for both disciplinary action  
10 against an optician as set forth in this section and cease and  
11 desist or other related action by the department as set forth  
12 in s. 455.637 ~~455.228~~ against any person operating an optical  
13 establishment who engages in, aids, or abets any such  
14 violation:

15           (a) Procuring or attempting to procure a license by  
16 misrepresentation, bribery, or fraud or through an error of  
17 the department or the board.

18           (b) Procuring or attempting to procure a license for  
19 any other person by making or causing to be made any false  
20 representation.

21           (c) Making or filing a report or record which the  
22 licensee knows to be false, intentionally or negligently  
23 failing to file a report or record required by federal or  
24 state law, willfully impeding or obstructing such filing, or  
25 inducing another person to do so. Such reports or records  
26 shall include only those which the person is required to make  
27 or file as an optician.

28           (d) Failing to make fee or price information readily  
29 available by providing such information upon request or upon  
30 the presentation of a prescription.

31

1           (e) Advertising goods or services in a manner which is  
2 fraudulent, false, deceptive, or misleading in form or  
3 content.

4           (f) Fraud or deceit, or negligence, incompetency, or  
5 misconduct, in the authorized practice of opticianry.

6           (g) Violation or repeated violation of this part or of  
7 part II of chapter 455 or any rules promulgated pursuant  
8 thereto.

9           (h) Practicing with a revoked, suspended, inactive, or  
10 delinquent license.

11           (i) Violation of a lawful order of the board or  
12 department previously entered in a disciplinary hearing or  
13 failing to comply with a lawfully issued subpoena of the  
14 department.

15           (j) Violation of any provision of s. 484.012.

16           (k) Conspiring with another licensee or with any  
17 person to commit an act, or committing an act, which would  
18 coerce, intimidate, or preclude another licensee from lawfully  
19 advertising her or his services.

20           (l) Willfully submitting to any third-party payor a  
21 claim for services which were not provided to a patient.

22           (m) Failing to keep written prescription files.

23           (n) Willfully failing to report any person who the  
24 licensee knows is in violation of this part or of rules of the  
25 department or the board.

26           (o) Exercising influence on a client in such a manner  
27 as to exploit the client for financial gain of the licensee or  
28 of a third party.

29           (p) Gross or repeated malpractice.

30           (q) Permitting any person not licensed as an optician  
31 in this state to fit or dispense any lenses, spectacles,

1 eyeglasses, or other optical devices which are part of the  
2 practice of opticianry.

3 (r) Being convicted or found guilty of, or entering a  
4 plea of nolo contendere to, regardless of adjudication, in a  
5 court of this state or other jurisdiction, a crime which  
6 relates to the ability to practice opticianry or to the  
7 practice of opticianry.

8 (s) Having been disciplined by a regulatory agency in  
9 another state for any offense that would constitute a  
10 violation of Florida law or rules regulating opticianry.

11 (t) Being unable to practice opticianry with  
12 reasonable skill and safety by reason of illness or use of  
13 drugs, narcotics, chemicals, or any other type of material or  
14 as a result of any mental or physical condition. An optician  
15 affected under this paragraph shall at reasonable intervals be  
16 afforded an opportunity to demonstrate that she or he can  
17 resume the competent practice of opticianry with reasonable  
18 skill and safety to her or his customers.

19 Section 134. Subsection (4) of section 484.042,  
20 Florida Statutes, is amended to read:

21 484.042 Board of Hearing Aid Specialists; membership,  
22 appointment, terms.--

23 (4) All provisions of part II of chapter 455 relating  
24 to activities of regulatory boards apply to the board.  
25 However, notwithstanding the requirement of s.

26 455.621~~455.225~~(4) that the board provide by rule for the  
27 determination of probable cause by a panel composed of its  
28 members or by the department, the board may provide by rule  
29 that its probable cause panel may be composed of one current  
30 member of the board and one past member of the board, as long  
31 as the past member is a licensed hearing aid specialist in



1 good standing. The past board member shall be appointed to  
2 the panel for a maximum of 2 years by the chair of the board  
3 with the approval of the secretary.

4 Section 135. Subsection (1) of section 484.056,  
5 Florida Statutes, is amended to read:

6 484.056 Disciplinary proceedings.--

7 (1) The following acts relating to the practice of  
8 dispensing hearing aids shall be grounds for both disciplinary  
9 action against a hearing aid specialist as set forth in this  
10 section and cease and desist or other related action by the  
11 department as set forth in s. 455.637 ~~455.228~~ against any  
12 person owning or operating a hearing aid establishment who  
13 engages in, aids, or abets any such violation:

14 (a) Violation of any provision of s. 455.624~~455.227~~(1)  
15 or s. 484.053.

16 (b) Attempting to procure a license to dispense  
17 hearing aids by bribery, by fraudulent misrepresentations, or  
18 through an error of the department or the board.

19 (c) Having a license to dispense hearing aids revoked,  
20 suspended, or otherwise acted against, including the denial of  
21 licensure, by the licensing authority of another state,  
22 territory, or country.

23 (d) Being convicted or found guilty of, or entering a  
24 plea of nolo contendere to, regardless of adjudication, a  
25 crime in any jurisdiction which directly relates to the  
26 practice of dispensing hearing aids or the ability to practice  
27 dispensing hearing aids, including violations of any federal  
28 laws or regulations regarding hearing aids.

29 (e) Making or filing a report or record which the  
30 licensee knows to be false, intentionally or negligently  
31 failing to file a report or record required by state or

1 federal law, willfully impeding or obstructing such filing, or  
2 inducing another person to impede or obstruct such filing.  
3 Such reports or records shall include only those reports or  
4 records which are signed in one's capacity as a licensed  
5 hearing aid specialist.

6 (f) Advertising goods or services in a manner which is  
7 fraudulent, false, deceptive, or misleading in form or  
8 content.

9 (g) Proof that the licensee is guilty of fraud or  
10 deceit or of negligence, incompetency, or misconduct in the  
11 practice of dispensing hearing aids.

12 (h) Violation or repeated violation of this part or of  
13 part II of chapter 455, or any rules promulgated pursuant  
14 thereto.

15 (i) Violation of a lawful order of the board or  
16 department previously entered in a disciplinary hearing or  
17 failure to comply with a lawfully issued subpoena of the board  
18 or department.

19 (j) Practicing with a revoked, suspended, inactive, or  
20 delinquent license.

21 (k) Using, or causing or promoting the use of, any  
22 advertising matter, promotional literature, testimonial,  
23 guarantee, warranty, label, brand, insignia, or other  
24 representation, however disseminated or published, which is  
25 misleading, deceiving, or untruthful.

26 (l) Showing or demonstrating, or, in the event of  
27 sale, delivery of, a product unusable or impractical for the  
28 purpose represented or implied by such action.

29 (m) Misrepresentation of professional services  
30 available in the fitting, sale, adjustment, service, or repair  
31 of a hearing aid, or use of the terms "doctor," "clinic,"

1 "clinical," "medical audiologist," "clinical audiologist,"  
2 "research audiologist," or "audiologic" or any other term or  
3 title which might connote the availability of professional  
4 services when such use is not accurate.

5 (n) Representation, advertisement, or implication that  
6 a hearing aid or its repair is guaranteed without providing  
7 full disclosure of the identity of the guarantor; the nature,  
8 extent, and duration of the guarantee; and the existence of  
9 conditions or limitations imposed upon the guarantee.

10 (o) Representing, directly or by implication, that a  
11 hearing aid utilizing bone conduction has certain specified  
12 features, such as the absence of anything in the ear or  
13 leading to the ear, or the like, without disclosing clearly  
14 and conspicuously that the instrument operates on the bone  
15 conduction principle and that in many cases of hearing loss  
16 this type of instrument may not be suitable.

17 (p) Making any predictions or prognostications as to  
18 the future course of a hearing impairment, either in general  
19 terms or with reference to an individual person.

20 (q) Stating or implying that the use of any hearing  
21 aid will improve or preserve hearing or prevent or retard the  
22 progression of a hearing impairment or that it will have any  
23 similar or opposite effect.

24 (r) Making any statement regarding the cure of the  
25 cause of a hearing impairment by the use of a hearing aid.

26 (s) Representing or implying that a hearing aid is or  
27 will be "custom-made," "made to order," or "prescription-made"  
28 or in any other sense specially fabricated for an individual  
29 person when such is not the case.

30 (t) Canvassing from house to house or by telephone  
31 either in person or by an agent for the purpose of selling a

1 hearing aid, except that contacting persons who have evidenced  
2 an interest in hearing aids, or have been referred as in need  
3 of hearing aids, shall not be considered canvassing.

4 (u) Failure to submit to the board on an annual basis,  
5 or such other basis as may be provided by rule, certification  
6 of testing and calibration of audiometric testing equipment on  
7 the form approved by the board.

8 (v) Failing to provide all information as described in  
9 s. 484.051(1).

10 (w) Exercising influence on a client in such a manner  
11 as to exploit the client for financial gain of the licensee or  
12 of a third party.

13 Section 136. Subsection (4) of section 486.023,  
14 Florida Statutes, is amended to read:

15 486.023 Board of Physical Therapy Practice.--

16 (4) All provisions of part II of chapter 455 relating  
17 to activities of the board shall apply.

18 Section 137. Section 486.115, Florida Statutes, is  
19 amended to read:

20 486.115 Disposition of fees.--All moneys collected by  
21 the department under this chapter shall be deposited and  
22 expended pursuant to the provisions of s. 455.587 ~~215.37~~.

23 Section 138. Section 486.172, Florida Statutes, is  
24 amended to read:

25 486.172 Application of s. 455.514 ~~455.11~~.--The  
26 provisions of s. 455.514 ~~455.11~~ shall also be applicable to  
27 the provisions of this chapter.

28 Section 139. Paragraph (c) of subsection (1) and  
29 paragraph (a) of subsection (11) of section 489.129, Florida  
30 Statutes, are amended to read:

31 489.129 Disciplinary proceedings.--

1           (1) The board may take any of the following actions  
2 against any certificateholder or registrant: place on  
3 probation or reprimand the licensee, revoke, suspend, or deny  
4 the issuance or renewal of the certificate, registration, or  
5 certificate of authority, require financial restitution to a  
6 consumer for financial harm directly related to a violation of  
7 a provision of this part, impose an administrative fine not to  
8 exceed \$5,000 per violation, require continuing education, or  
9 assess costs associated with investigation and prosecution, if  
10 the contractor, financially responsible officer, or business  
11 organization for which the contractor is a primary qualifying  
12 agent, a financially responsible officer, or a secondary  
13 qualifying agent responsible under s. 489.1195 is found guilty  
14 of any of the following acts:

15           (c) Violating any provision of part I of chapter 455.

16  
17 For the purposes of this subsection, construction is  
18 considered to be commenced when the contract is executed and  
19 the contractor has accepted funds from the customer or lender.

20           (11)(a) Notwithstanding the provisions of chapter  
21 ~~chapters~~ 120 and part I of chapter 455, upon receipt of a  
22 legally sufficient consumer complaint alleging a violation of  
23 this part, the department may provide by rule for binding  
24 arbitration between the complainant and the certificateholder  
25 or registrant, provided the following conditions exist:

26           1. There is evidence that the complainant has suffered  
27 or is likely to suffer monetary damages resulting from the  
28 violation of this part;

29           2. The certificateholder or registrant does not have a  
30 history of repeated or similar violations;

31

1           3. Reasonable grounds exist to believe that the public  
2 interest will be better served by arbitration than by  
3 disciplinary action; and

4           4. The complainant and certificateholder or registrant  
5 have not previously entered into private arbitration, and no  
6 civil court action based on the same transaction has been  
7 filed.

8           Section 140. Paragraph (a) of subsection (1) and  
9 paragraphs (a) and (e) of subsection (7) of section 489.533,  
10 Florida Statutes, are amended to read:

11           489.533 Disciplinary proceedings.--

12           (1) The following acts shall constitute grounds for  
13 disciplinary actions as provided in subsection (2):

14           (a) Violating any provision of s. 489.531 or part I of  
15 chapter 455.

16  
17 For the purposes of this subsection, construction is  
18 considered to be commenced when the contract is executed and  
19 the contractor has accepted funds from the customer or lender.

20           (7)(a) The department may, by rule, provide for a  
21 mediation process for the complainant and the licensee.  
22 Notwithstanding the provisions of ~~chapter chapters~~ 120 and  
23 part I of chapter 455, upon receipt of a legally sufficient  
24 consumer complaint alleging a violation of this part, both the  
25 licensee and the complainant may consent in writing to  
26 mediation within 15 days following notification of this  
27 process by the department. The department may suspend all  
28 action in the matter for 45 days when notice of consent to  
29 mediation is received by the department. If the mediation  
30 process is successfully concluded within the 60-day period,  
31 the department may close the case file with a notation of the

1 disposition and the licensee's record shall reflect only that  
2 a complaint was filed and resolved through mediation. If  
3 mediation is rejected by either the complainant or licensee,  
4 or should said parties fail to reach a mediated solution  
5 within the 60-day period, the department shall process the  
6 complaint in the manner required by chapter ~~chapters~~ 120 and  
7 part I of chapter 455. The mediator shall provide a written  
8 report to the department of the mediation results within 10  
9 days of the conclusion of the mediation process as provided by  
10 rule.

11 (e) The department, in conjunction with the board,  
12 shall determine by rule the types of cases which may be  
13 included in the mediation process. The department may initiate  
14 or continue disciplinary action, pursuant to part I of chapter  
15 455 and this chapter against the licensee as determined by  
16 rule.

17 Section 141. Subsection (5) of section 490.004,  
18 Florida Statutes, is amended to read:

19 490.004 Board of Psychology.--

20 (5) All applicable provisions of part II of chapter  
21 455 relating to activities of regulatory boards shall apply to  
22 the board.

23 Section 142. Section 490.00515, Florida Statutes, is  
24 amended to read:

25 490.00515 Exemptions from public records and meetings  
26 requirements.--The exemptions from s. 119.07(1) provided by  
27 ss. 455.621~~455.225~~(2) and (10) and 455.707~~455.261~~(3)(e) and  
28 (5)(a) also apply to information concerning a provisional  
29 psychologist regulated by the Agency for Health Care  
30 Administration and the Department of Health under this  
31 chapter, a registered clinical social worker intern, a

1 registered marriage and family therapist intern, a registered  
2 mental health counselor intern, a provisional clinical social  
3 worker, a provisional marriage and family therapist, or a  
4 provisional mental health counselor regulated by the Agency  
5 for Health Care Administration and the Department of Health  
6 under chapter 491. The exemption from s. 286.011 provided by  
7 s. ~~455.621~~~~455.225~~(4) also applies to the proceedings of a  
8 probable cause panel with respect to an investigation  
9 concerning a provisional psychologist, a registered clinical  
10 social worker intern, a registered marriage and family  
11 therapist intern, a registered mental health counselor intern,  
12 a provisional clinical social worker, a provisional marriage  
13 and family therapist, or a provisional mental health counselor  
14 regulated by the agency and department under this chapter or  
15 chapter 491. This section is subject to the Open Government  
16 Sunset Review Act of 1995 in accordance with s. 119.15 and  
17 shall stand repealed on October 2, 2002, unless reviewed and  
18 saved from repeal through reenactment by the Legislature.

19 Section 143. Paragraph (q) of subsection (2) of  
20 section 490.009, Florida Statutes, is amended to read:

21 490.009 Discipline.--

22 (2) The following acts of a licensee, provisional  
23 licensee, or applicant are grounds for which the disciplinary  
24 actions listed in subsection (1) may be taken:

25 (q) Violating provisions of this chapter, or of part  
26 II of chapter 455, or any rules adopted pursuant thereto.

27 Section 144. Subsection (1) of section 490.015,  
28 Florida Statutes, is amended to read:

29 490.015 Duties of the department.--

30 (1) All functions reserved to boards under part II of  
31 chapter 455 shall be exercised by the department with respect



1 to the regulation of school psychologists and in a manner  
2 consistent with the exercise of its regulatory functions.

3 Section 145. Subsection (6) of section 491.004,  
4 Florida Statutes, is amended to read:

5 491.004 Board of Clinical Social Work, Marriage and  
6 Family Therapy, and Mental Health Counseling.--

7 (6) All applicable provisions of part II of chapter  
8 455 relating to activities of regulatory boards shall apply to  
9 the board.

10 Section 146. Section 491.0047, Florida Statutes, is  
11 amended to read:

12 491.0047 Exemptions from public records and meetings  
13 requirements.--The exemptions from s. 119.07(1) provided by  
14 ss. 455.621~~455.225~~(2) and (10) and 455.707~~455.261~~(3)(e) and  
15 (5)(a) also apply to information concerning a provisional  
16 psychologist regulated by the Agency for Health Care  
17 Administration and the Department of Health under chapter 490,  
18 a registered clinical social worker intern, a registered  
19 marriage and family therapist intern, a registered mental  
20 health counselor intern, a provisional clinical social worker,  
21 a provisional marriage and family therapist, or a provisional  
22 mental health counselor regulated by the Agency for Health  
23 Care Administration and the Department of Health under this  
24 chapter. The exemption from s. 286.011 provided by s.  
25 455.621~~455.225~~(4) also applies to the proceedings of a  
26 probable cause panel with respect to an investigation  
27 concerning a provisional psychologist, a registered clinical  
28 social worker intern, a registered marriage and family  
29 therapist intern, a registered mental health counselor intern,  
30 a provisional clinical social worker, a provisional marriage  
31 and family therapist, or a provisional mental health counselor

1 regulated by the agency and department under chapter 490 or  
2 this chapter. This section is subject to the Open Government  
3 Sunset Review Act of 1995 in accordance with s. 119.15 and  
4 shall stand repealed on October 2, 2002, unless reviewed and  
5 saved from repeal through reenactment by the Legislature.

6 Section 147. Paragraph (c) of subsection (4) of  
7 section 491.005, Florida Statutes, is amended to read:

8 491.005 Licensure by examination.--

9 (4) Upon verification of documentation and payment of  
10 a fee not to exceed \$200, as set by board rule, plus the  
11 actual per applicant cost to the department for purchase of  
12 the examination from the Professional Examination Service for  
13 the National Academy of Certified Clinical Mental Health  
14 Counselors or a similar national organization, the department  
15 shall issue a license as a mental health counselor to an  
16 applicant who the board certifies:

17 (c) Has had not less than 2 years of clinical  
18 experience in mental health counseling, which must be at the  
19 post-master's level under the supervision of a licensed mental  
20 health counselor or the equivalent who is a qualified  
21 supervisor as determined by the board. An individual who  
22 intends to practice in Florida to satisfy the clinical  
23 experience requirements must register pursuant to s. 491.0045  
24 prior to commencing practice. If a graduate has a master's  
25 degree with a major related to the practice of mental health  
26 counseling which did not include all the coursework required  
27 under sub-subparagraphs (b)1.a.-c., credit for the  
28 post-master's level clinical experience shall not commence  
29 until the applicant has completed a minimum of seven of the  
30 courses required under sub-subparagraphs (b)1.a.-c., as  
31 determined by the board, ~~one of which must be a course in~~

1 ~~psychopathology or abnormal psychology~~. A doctoral internship  
2 may be applied toward the clinical experience requirement. The  
3 clinical experience requirement may be met by work performed  
4 on or off the premises of the supervising mental health  
5 counselor or the equivalent, provided the off-premises work is  
6 not the independent private practice rendering of services  
7 that does not have a licensed mental health professional, as  
8 determined by the board, on the premises at the same time the  
9 intern is providing services.

10 Section 148. Paragraph (q) of subsection (2) of  
11 section 491.009, Florida Statutes, is amended to read:

12 491.009 Discipline.--

13 (2) The following acts of a licensee, provisional  
14 licensee, registered intern, certificateholder, or applicant  
15 are grounds for which the disciplinary actions listed in  
16 subsection (1) may be taken:

17 (q) Violating provisions of this chapter, or of part  
18 II of chapter 455, or any rules adopted pursuant thereto.

19 Section 149. Subsection (1) of section 491.015,  
20 Florida Statutes, is amended to read:

21 491.015 Duties of the department as to certified  
22 master social workers.--

23 (1) All functions reserved to boards under part II of  
24 chapter 455 shall be exercised by the department with respect  
25 to the regulation of certified master social workers and in a  
26 manner consistent with the exercise of its regulatory  
27 functions.

28 Section 150. Subsection (2) of section 492.103,  
29 Florida Statutes, is amended to read:

30 492.103 Board of Professional Geologists.--

31

1           (2) All provisions of part I of chapter 455 relating  
2 to activities of the board shall apply.

3           Section 151. Paragraph (h) of subsection (1) of  
4 section 492.113, Florida Statutes, is amended to read:

5           492.113 Disciplinary proceedings.--

6           (1) The following acts constitute grounds for which  
7 the disciplinary actions in subsection (3) may be taken:

8           (h) Violation of part I of chapter 455.

9           Section 152. Section 627.6407, Florida Statutes, is  
10 amended to read:

11           627.6407 Massage.--Any policy of health insurance that  
12 provides coverage for massage shall also cover the services of  
13 persons licensed to practice massage pursuant to chapter 480,  
14 where the massage, as defined in chapter 480, has been  
15 prescribed by a physician licensed under chapter 458, chapter  
16 459, chapter 460, or chapter 461, as being medically necessary  
17 and the prescription specifies the number of treatments.

18           Section 153. Section 627.6619, Florida Statutes, is  
19 amended to read:

20           627.6619 Massage.--Any policy of health insurance that  
21 provides coverage for massage shall also cover the services of  
22 persons licensed to practice massage pursuant to chapter 480,  
23 where the massage, as defined in chapter 480, has been  
24 prescribed by a physician licensed under chapter 458, chapter  
25 459, chapter 460, or chapter 461, as being medically necessary  
26 and the prescription specifies the number of treatments.

27           Section 154. Subsection (3) of section 627.668,  
28 Florida Statutes, is amended to read:

29           627.668 Optional coverage for mental and nervous  
30 disorders required; exception.--

31

1           (3) Insurers must maintain strict confidentiality  
2 regarding psychiatric and psychotherapeutic records submitted  
3 to an insurer for the purpose of reviewing a claim for  
4 benefits payable under this section. These records submitted  
5 to an insurer are subject to the limitations of s. 455.667  
6 ~~455.241~~, relating to the furnishing of patient records.

7           Section 155. Paragraph (e) of subsection (2) and  
8 subsections (1) and (3) of section 627.912, Florida Statutes,  
9 are amended to read:

10           627.912 Professional liability claims and actions;  
11 reports by insurers.--

12           (1) Each self-insurer authorized under s. 627.357 and  
13 each insurer or joint underwriting association providing  
14 professional liability insurance to a practitioner of medicine  
15 licensed under chapter 458, to a practitioner of osteopathic  
16 medicine licensed under chapter 459, to a podiatric physician  
17 ~~podiatrist~~ licensed under chapter 461, to a dentist licensed  
18 under chapter 466, to a hospital licensed under chapter 395,  
19 to a crisis stabilization unit licensed under part IV of  
20 chapter 394, to a health maintenance organization certificated  
21 under part I of chapter 641, to clinics included in chapter  
22 390, to an ambulatory surgical center as defined in s.  
23 395.002, or to a member of The Florida Bar shall report in  
24 duplicate to the Department of Insurance any claim or action  
25 for damages for personal injuries claimed to have been caused  
26 by error, omission, or negligence in the performance of such  
27 insured's professional services or based on a claimed  
28 performance of professional services without consent, if the  
29 claim resulted in:

30           (a) A final judgment in any amount.

31           (b) A settlement in any amount.

1 (c) A final disposition not resulting in payment on  
2 behalf of the insured.

3  
4 Reports shall be filed with the department and, if the insured  
5 party is licensed under chapter 458, chapter 459, chapter 461,  
6 or chapter 466, with the Department of Health Agency for  
7 ~~Health Care Administration~~, no later than 30 days following  
8 the occurrence of any event listed in paragraph (a), paragraph  
9 (b), or paragraph (c). The Department of Health Agency for  
10 ~~Health Care Administration~~ shall review each report and  
11 determine whether any of the incidents that resulted in the  
12 claim potentially involved conduct by the licensee that is  
13 subject to disciplinary action, in which case the provisions  
14 of s. 455.621 ~~455.225~~ shall apply. The Department of Health  
15 ~~Agency for Health Care Administration~~, as part of the annual  
16 report required by s. 455.644 ~~455.2285~~, shall publish annual  
17 statistics, without identifying licensees, on the reports it  
18 receives, including final action taken on such reports by the  
19 Department of Health agency or the appropriate regulatory  
20 board.

21 (2) The reports required by subsection (1) shall  
22 contain:

23 (e) The name and address of the injured person. This  
24 information is confidential and exempt from the provisions of  
25 s. 119.07(1), and must not be disclosed by the department  
26 without the injured person's consent, except for disclosure by  
27 the department to the Department of Health Agency for Health  
28 ~~Care Administration~~. This information may be used by the  
29 department for purposes of identifying multiple or duplicate  
30 claims arising out of the same occurrence.

31

1           (3) Upon request by the Department of Health ~~Agency~~  
2 ~~for Health Care Administration~~, the department shall provide  
3 the Department of Health ~~agency~~ with any information received  
4 under this section related to persons licensed under chapter  
5 458, chapter 459, chapter 461, or chapter 466. For purposes of  
6 safety management, the department shall annually provide the  
7 Department of Health with copies of the reports in cases  
8 resulting in an indemnity being paid to the claimants.

9           Section 156. Section 636.039, Florida Statutes, is  
10 amended to read:

11           636.039 Examination by the department.--The department  
12 shall examine the affairs, transactions, accounts, business  
13 records, and assets of any prepaid limited health service  
14 organization, in the same manner and subject to the same terms  
15 and conditions that apply to insurers under part II of chapter  
16 624, as often as it deems it expedient for the protection of  
17 the people of this state, but not less frequently than once  
18 every 3 years. In lieu of making its own financial  
19 examination, the department may accept an independent  
20 certified public accountant's audit report prepared on a  
21 statutory accounting basis consistent with this act. However,  
22 except when the medical records are requested and copies  
23 furnished pursuant to s. 455.667 ~~455.241~~, medical records of  
24 individuals and records of physicians providing service under  
25 contract to the prepaid limited health service organization  
26 are not subject to audit, but may be subject to subpoena by  
27 court order upon a showing of good cause. For the purpose of  
28 examinations, the department may administer oaths to and  
29 examine the officers and agents of a prepaid limited health  
30 service organization concerning its business and affairs. The  
31 expenses of examination of each prepaid limited health service

1 organization by the department are subject to the same terms  
2 and conditions as apply to insurers under part II of chapter  
3 624. Expenses of all examinations of a prepaid limited health  
4 service organization may never exceed a maximum of \$20,000 for  
5 any 1-year period.

6 Section 157. Subsection (1) of section 641.27, Florida  
7 Statutes, is amended to read:

8 641.27 Examination by the department.--

9 (1) The department shall examine the affairs,  
10 transactions, accounts, business records, and assets of any  
11 health maintenance organization as often as it deems it  
12 expedient for the protection of the people of this state, but  
13 not less frequently than once every 3 years. In lieu of  
14 making its own financial examination, the department may  
15 accept an independent certified public accountant's audit  
16 report prepared on a statutory accounting basis consistent  
17 with this part. However, except when the medical records are  
18 requested and copies furnished pursuant to s. 455.667 ~~455.241~~,  
19 medical records of individuals and records of physicians  
20 providing service under contract to the health maintenance  
21 organization shall not be subject to audit, although they may  
22 be subject to subpoena by court order upon a showing of good  
23 cause. For the purpose of examinations, the department may  
24 administer oaths to and examine the officers and agents of a  
25 health maintenance organization concerning its business and  
26 affairs. The examination of each health maintenance  
27 organization by the department shall be subject to the same  
28 terms and conditions as apply to insurers under chapter 624.  
29 In no event shall expenses of all examinations exceed a  
30 maximum of \$20,000 for any 1-year period. Any rehabilitation,  
31 liquidation, conservation, or dissolution of a health



1 maintenance organization shall be conducted under the  
2 supervision of the department, which shall have all power with  
3 respect thereto granted to it under the laws governing the  
4 rehabilitation, liquidation, reorganization, conservation, or  
5 dissolution of life insurance companies.

6 Section 158. Paragraph (b) of subsection (2) and  
7 subsection (5) of section 641.316, Florida Statutes, are  
8 amended to read:

9 641.316 Fiscal intermediary services.--

10 (2)

11 (b) The term "fiscal intermediary services  
12 organization" means a person or entity which performs  
13 fiduciary or fiscal intermediary services to health care  
14 professionals who contract with health maintenance  
15 organizations other than a fiscal intermediary services  
16 organization owned, operated, or controlled by a hospital  
17 licensed under chapter 395, an insurer licensed under chapter  
18 624, a third-party administrator licensed under chapter 626, a  
19 prepaid limited health organization licensed under chapter  
20 636, a health maintenance organization licensed under this  
21 chapter, or physician group practices as defined in s.  
22 455.654~~455.236~~(3)(f).

23 (5) Any fiscal intermediary services organization,  
24 other than a fiscal intermediary services organization owned,  
25 operated, or controlled by a hospital licensed under chapter  
26 395, an insurer licensed under chapter 624, a third-party  
27 administrator licensed under chapter 626, a prepaid limited  
28 health organization licensed under chapter 636, a health  
29 maintenance organization licensed under this chapter, or  
30 physician group practices as defined in s.  
31 455.654~~455.236~~(3)(f), must register with the department and

1 meet the requirements of this section. In order to register as  
2 a fiscal intermediary services organization, the organization  
3 must comply with ss. 641.21(1)(c) and (d) and 641.22(6).  
4 Should the department determine that the fiscal intermediary  
5 services organization does not meet the requirements of this  
6 section, the registration shall be denied. In the event that  
7 the registrant fails to maintain compliance with the  
8 provisions of this section, the department may revoke or  
9 suspend the registration. In lieu of revocation or suspension  
10 of the registration, the department may levy an administrative  
11 penalty in accordance with s. 641.25.

12 Section 159. Paragraphs (b) and (c) of subsection (5)  
13 and subsections (6) and (8) of section 641.55, Florida  
14 Statutes, are amended to read:

15 641.55 Internal risk management program.--

16 (5)

17 (b) The information reported to the agency under  
18 paragraph (a) which relates to providers licensed under  
19 chapter 458, chapter 459, chapter 461, or chapter 466 must  
20 also be reported to the agency quarterly. The agency shall  
21 review the information and determine whether any of the  
22 incidents potentially involved conduct by a licensee that is  
23 subject to disciplinary action, in which case s. 455.621  
24 ~~455.225~~ applies.

25 (c) Except as otherwise provided in this subsection,  
26 any identifying information contained in the annual report and  
27 the quarterly reports under paragraphs (a) and (b) is  
28 confidential and exempt from s. 119.07(1). This information  
29 must not be available to the public as part of the record of  
30 investigation for and prosecution in disciplinary proceedings  
31 made available to the public by the agency or the appropriate

1 regulatory board. However, the agency shall make available,  
2 upon written request by a practitioner against whom probable  
3 cause has been found, any such information contained in the  
4 records that form the basis of the determination of probable  
5 cause under s. 455.621 ~~455.225~~.

6 (6) If an adverse or untoward incident, whether  
7 occurring in the facilities of the organization or arising  
8 from health care prior to enrollment by the organization or  
9 admission to the facilities of the organization or in a  
10 facility of one of its providers, results in:

11 (a) The death of a patient;

12 (b) Severe brain or spinal damage to a patient;

13 (c) A surgical procedure being performed on the wrong  
14 patient; or

15 (d) A surgical procedure unrelated to the patient's  
16 diagnosis or medical needs being performed on any patient,

17  
18 the organization must report this incident to the agency  
19 within 3 working days after its occurrence. A more detailed  
20 followup report must be submitted to the agency within 10 days  
21 after the first report. The agency may require an additional,  
22 final report. Reports under this subsection must be sent  
23 immediately by the agency to the appropriate regulatory board  
24 whenever they contain references to a provider licensed under  
25 chapter 458, chapter 459, chapter 461, or chapter 466. These  
26 reports are confidential and are exempt from s. 119.07(1).

27 This information is not available to the public as part of the  
28 record of investigation for and prosecution in disciplinary  
29 proceedings made available to the public by the agency or the  
30 appropriate regulatory board. However, the agency shall make  
31 available, upon written request by a practitioner against whom

1 | probable cause has been found, any such information contained  
2 | in the records that form the basis of the determination of  
3 | probable cause under s. 455.621 ~~455.225~~. The agency may  
4 | investigate, as it deems appropriate, any such incident and  
5 | prescribe measures that must or may be taken by the  
6 | organization in response to the incident. The agency shall  
7 | review each incident and determine whether it potentially  
8 | involved conduct by the licensee which is subject to  
9 | disciplinary action, in which case s. 455.621 ~~455.225~~ applies.

10 |         (8) The agency and, upon subpoena issued under s.  
11 | 455.611 ~~455.223~~, the appropriate regulatory board must be  
12 | given access to all organization records necessary to carry  
13 | out the provisions of this section. Any identifying  
14 | information contained in the records obtained under this  
15 | section is confidential and exempt from s. 119.07(1). The  
16 | identifying information contained in records obtained under s.  
17 | 455.611 ~~455.223~~ is exempt from s. 119.07(1) to the extent that  
18 | it is part of the record of investigation for and prosecution  
19 | in disciplinary proceedings made available to the public by  
20 | the agency or the appropriate regulatory board. However, the  
21 | agency must make available, upon written request by a  
22 | practitioner against whom probable cause has been found, any  
23 | such information contained in the records that form the basis  
24 | of the determination of probable cause under s. 455.621  
25 | ~~455.225~~, except that, with respect to medical review committee  
26 | records, s. 766.101 controls.

27 |  
28 | The gross data compiled under this section or s. 395.0197  
29 | shall be furnished by the agency upon request to organizations  
30 | to be utilized for risk management purposes. The agency shall  
31 |

1 adopt rules necessary to carry out the provisions of this  
2 section.

3 Section 160. Subsection (2) of section 766.106,  
4 Florida Statutes, is amended to read:

5 766.106 Notice before filing action for medical  
6 malpractice; presuit screening period; offers for admission of  
7 liability and for arbitration; informal discovery; review.--

8 (2) After completion of presuit investigation pursuant  
9 to s. 766.203 and prior to filing a claim for medical  
10 malpractice, a claimant shall notify each prospective  
11 defendant and, if any prospective defendant is a health care  
12 provider licensed under chapter 458, chapter 459, chapter 460,  
13 chapter 461, or chapter 466, the Department of Health Business  
14 ~~and Professional Regulation~~ by certified mail, return receipt  
15 requested, of intent to initiate litigation for medical  
16 malpractice. Notice to the Department of Health Business ~~and~~  
17 ~~Professional Regulation~~ must include the full name and address  
18 of the claimant; the full names and any known addresses of any  
19 health care providers licensed under chapter 458, chapter 459,  
20 chapter 460, chapter 461, or chapter 466 who are prospective  
21 defendants identified at the time; the date and a summary of  
22 the occurrence giving rise to the claim; and a description of  
23 the injury to the claimant. The requirement for notice to the  
24 Department of Health Business ~~and Professional Regulation~~ does  
25 not impair the claimant's legal rights or ability to seek  
26 relief for his or her claim, and the notice provided to the  
27 department is not discoverable or admissible in any civil or  
28 administrative action. The Department of Health Business ~~and~~  
29 ~~Professional Regulation~~ shall review each incident and  
30 determine whether it involved conduct by a licensee which is  
31

1 potentially subject to disciplinary action, in which case the  
2 provisions of s. 455.621 ~~455.225~~ apply.

3 Section 161. Subsection (4) of section 766.305,  
4 Florida Statutes, is amended to read:

5 766.305 Filing of claims and responses; medical  
6 disciplinary review.--

7 (4) Upon receipt of such petition, the Division of  
8 Medical Quality Assurance shall review the information therein  
9 and determine whether it involved conduct by a physician  
10 licensed under chapter 458 or an osteopathic physician  
11 licensed under chapter 459 that is subject to disciplinary  
12 action, in which case the provisions of s. 455.621 ~~455.225~~  
13 shall apply.

14 Section 162. Subsection (2) of section 766.308,  
15 Florida Statutes, is amended to read:

16 766.308 Medical advisory panel review and  
17 recommendations; procedure.--

18 (2) The Department of Insurance shall develop a plan  
19 which provides the method and procedure for such medical  
20 advisory panel review and shall develop such plan in  
21 coordination with the Division of Medical Quality Assurance of  
22 the Department of Health ~~Business and Professional Regulation~~  
23 ~~and the Children's Medical Services Program Office of the~~  
24 ~~Department of Health and Rehabilitative Services.~~

25 Section 163. Paragraph (b) of subsection (4) of  
26 section 766.314, Florida Statutes, is amended to read:

27 766.314 Assessments; plan of operation.--

28 (4) The following persons and entities shall pay into  
29 the association an initial assessment in accordance with the  
30 plan of operation:  
31

1 (b)1. On or before October 15, 1988, all physicians  
2 licensed pursuant to chapter 458 or chapter 459 as of October  
3 1, 1988, other than participating physicians, shall be  
4 assessed an initial assessment of \$250, which must be paid no  
5 later than December 1, 1988.

6 2. Any such physician who becomes licensed after  
7 September 30, 1988, and before January 1, 1989, shall pay into  
8 the association an initial assessment of \$250 upon licensure.

9 3. Any such physician who becomes licensed on or after  
10 January 1, 1989, shall pay an initial assessment equal to the  
11 most recent assessment made pursuant to this paragraph,  
12 paragraph (5)(a), or paragraph (7)(b).

13 4. However, if the physician is a physician specified  
14 in this subparagraph, the assessment is not applicable:

15 a. A resident physician, assistant resident physician,  
16 or intern in an approved postgraduate training program, as  
17 defined by the Board of Medicine or the Board of Osteopathic  
18 Medicine by rule;

19 b. A retired physician who has withdrawn from the  
20 practice of medicine but who maintains an active license as  
21 evidenced by an affidavit filed with the Department of Health  
22 ~~Business and Professional Regulation~~. Prior to reentering the  
23 practice of medicine in this state, a retired physician as  
24 herein defined must notify the Board of Medicine or the Board  
25 of Osteopathic Medicine and pay the appropriate assessments  
26 pursuant to this section;

27 c. A physician who holds a limited license pursuant to  
28 s. 458.317 and who is not being compensated for medical  
29 services;

30 d. A physician who is employed full time by the United  
31 States Department of Veterans Affairs and whose practice is

1 confined to United States Department of Veterans Affairs  
2 hospitals; or  
3 e. A physician who is a member of the Armed Forces of  
4 the United States and who meets the requirements of s. 455.507  
5 ~~455.02~~.  
6 f. A physician who is employed full time by the State  
7 of Florida and whose practice is confined to state-owned  
8 correctional institutions, a county health department, or  
9 state-owned mental health or developmental services  
10 facilities, or who is employed full time by the Department of  
11 Health.  
12 Section 164. Paragraph (b) of subsection (3) of  
13 section 817.505, Florida Statutes, is amended to read:  
14 817.505 Patient brokering prohibited; exceptions;  
15 penalties.--  
16 (3) This section shall not apply to:  
17 (b) Any payment, compensation, or financial  
18 arrangement within a group practice as defined in s. 455.654  
19 ~~455.236~~, provided such payment, compensation, or arrangement  
20 is not to or from persons who are not members of the group  
21 practice.  
22 Section 165. Subsection (7) of section 865.09, Florida  
23 Statutes, is amended to read:  
24 865.09 Fictitious name registration.--  
25 (7) EXEMPTIONS.--A business formed by an attorney  
26 licensed to practice law in this state, or by a person  
27 licensed by the Department of Business and Professional  
28 Regulation or the Department of Health, for the purpose of  
29 practicing his or her licensed profession need not be  
30 registered under this section, notwithstanding that it  
31



1 transacts business ancillary to the practice of such  
2 profession.

3 Section 166. Section 937.031, Florida Statutes, is  
4 amended to read:

5 937.031 Dental records of missing persons; access and  
6 use.--When a person has been reported missing and has not been  
7 located within 30 days after such report, the law enforcement  
8 agency conducting the investigation of the missing person  
9 shall request the family or next of kin to provide written  
10 consent to contact the dentist of the missing person and  
11 request that person's dental records. Notwithstanding the  
12 provisions of s. 455.667 ~~455.241~~, a dentist, upon receipt of  
13 proof of written consent, shall release a copy of the dental  
14 records of the missing person to the law enforcement agency  
15 requesting such records, providing or encoding the dental  
16 records in a form requested by the Department of Law  
17 Enforcement. The law enforcement agency shall then enter the  
18 dental records into the criminal justice information system  
19 for the purpose of comparing such records to those of  
20 unidentified deceased persons.

21 Section 167. Paragraph (hh) of subsection (4) of  
22 section 215.20, Florida Statutes, is amended to read:

23 215.20 Certain income and certain trust funds to  
24 contribute to the General Revenue Fund.--

25 (4) The income of a revenue nature deposited in the  
26 following described trust funds, by whatever name designated,  
27 is that from which the deductions authorized by subsection (3)  
28 shall be made:

29 (hh) The Health Care Trust Fund established pursuant  
30 to s. 408.16 ~~455.2205~~.

31

1 The enumeration of the foregoing moneys or trust funds shall  
2 not prohibit the applicability thereto of s. 215.24 should the  
3 Governor determine that for the reasons mentioned in s. 215.24  
4 the money or trust funds should be exempt herefrom, as it is  
5 the purpose of this law to exempt income from its force and  
6 effect when, by the operation of this law, federal matching  
7 funds or contributions or private grants to any trust fund  
8 would be lost to the state.

9 Section 168. Subsection (3) of section 391.208,  
10 Florida Statutes, is amended to read:

11 391.208 Administrative fines; disposition of fees and  
12 fines.--

13 (3) Fees and fines received by the agency under this  
14 part shall be deposited in the Health Care Trust Fund created  
15 in s. 408.16 ~~455.2205~~.

16 Section 169. Section 391.217, Florida Statutes, is  
17 amended to read:

18 391.217 Disposition of moneys from fines and  
19 fees.--All moneys received from administrative fines pursuant  
20 to s. 391.208 and all moneys received from fees collected  
21 pursuant to s. 391.205 shall be deposited in the Health Care  
22 Trust Fund created in s. 408.16 ~~455.2205~~.

23 Section 170. Section 400.5575, Florida Statutes, is  
24 amended to read:

25 400.5575 Disposition of fees and administrative  
26 fines.--Fees and fines received by the agency under this part  
27 shall be deposited in the Health Care Trust Fund established  
28 pursuant to s. 408.16 ~~455.2205~~. These funds may be used to  
29 offset the costs of the licensure program, including the costs  
30 of conducting background investigations, verifying information  
31 submitted, and processing applications.

1           Section 171. Subsection (2) of section 408.20, Florida  
2 Statutes, is amended to read:

3           408.20 Assessments; Health Care Trust Fund.--

4           (2) All moneys collected are to be deposited into the  
5 Health Care Trust Fund created pursuant to s. 408.16 ~~455.2205.~~  
6 ~~The Health Care Trust Fund shall be subject to the service~~  
7 ~~charge imposed pursuant to chapter 215.~~

8           Section 172. Paragraph (b) of subsection (5) of  
9 section 641.60, Florida Statutes, is amended to read:

10          641.60 Statewide Managed Care Ombudsman Committee.--

11          (5)

12          (b) Travel expenses for the statewide committee shall  
13 be funded from the Health ~~Maintenance Organization Quality~~  
14 Care Trust Fund, created by s. 408.16 ~~641.57~~. The statewide  
15 committee may solicit grants, gifts, donations, bequests, or  
16 other payments including money, property, or services from any  
17 governmental or public entity or private entity or person to  
18 fund other expenses of the committee and the district  
19 committees. Any such moneys received shall be deposited into  
20 a trust fund administered by the agency.

21          Section 173. Paragraph (a) of subsection (36) of  
22 section 39.01, Florida Statutes, is amended to read:

23          39.01 Definitions.--When used in this chapter:

24          (36) "Neglect" occurs when the parent or legal  
25 custodian of a child or, in the absence of a parent or legal  
26 custodian, the person primarily responsible for the child's  
27 welfare deprives a child of, or allows a child to be deprived  
28 of, necessary food, clothing, shelter, or medical treatment or  
29 permits a child to live in an environment when such  
30 deprivation or environment causes the child's physical,  
31 mental, or emotional health to be significantly impaired or to

1 be in danger of being significantly impaired. The foregoing  
2 circumstances shall not be considered neglect if caused  
3 primarily by financial inability unless actual services for  
4 relief have been offered to and rejected by such person. A  
5 parent or guardian legitimately practicing religious beliefs  
6 in accordance with a recognized church or religious  
7 organization who thereby does not provide specific medical  
8 treatment for a child shall not, for that reason alone, be  
9 considered a negligent parent or guardian; however, such an  
10 exception does not preclude a court from ordering the  
11 following services to be provided, when the health of the  
12 child so requires:

13 (a) Medical services from a licensed physician,  
14 dentist, optometrist, podiatric physician ~~podiatrist~~, or other  
15 qualified health care provider; or

16 Section 174. Paragraph (a) of subsection (1) of  
17 section 320.0848, Florida Statutes, is amended to read:

18 320.0848 Persons who have disabilities; issuance of  
19 disabled parking permits; temporary permits; permits for  
20 certain providers of transportation services to persons who  
21 have disabilities.--

22 (1)(a) The Department of Highway Safety and Motor  
23 Vehicles or its authorized agents shall, upon application and  
24 receipt of the fee, issue a disabled parking permit for a  
25 period of up to 4 years that ends on the applicant's birthday  
26 to any person who has long-term mobility problems, or a  
27 temporary disabled parking permit not to exceed 1 year to any  
28 person who has temporary mobility problems. The person must  
29 be currently certified by a physician licensed under chapter  
30 458, chapter 459, or chapter 460, or by a podiatric physician  
31 ~~podiatrist~~ licensed under chapter 461, by the Division of

1 Blind Services of the Department of Labor and Employment  
2 Security, or by the Adjudication Office of the United States  
3 Department of Veterans Affairs or its predecessor as being  
4 legally blind or as having any of the following disabilities  
5 that limit or impair his or her ability to walk:  
6       1. Inability to walk 200 feet without stopping to  
7 rest.  
8       2. Inability to walk without the use of or assistance  
9 from a brace, cane, crutch, prosthetic device, or other  
10 assistive device, or without the assistance of another person.  
11 If the assistive device significantly restores the person's  
12 ability to walk to the extent that the person can walk without  
13 severe limitation, the person is not eligible for the  
14 exemption parking permit.  
15       3. The need to permanently use a wheelchair.  
16       4. Restriction by lung disease to the extent that the  
17 person's forced (respiratory) expiratory volume for 1 second,  
18 when measured by spirometry, is less than 1 liter, or the  
19 person's arterial oxygen is less than 60 mm/hg on room air at  
20 rest.  
21       5. Use of portable oxygen.  
22       6. Restriction by cardiac condition to the extent that  
23 the person's functional limitations are classified in severity  
24 as Class III or Class IV according to standards set by the  
25 American Heart Association.  
26       7. Severe limitation in the person's ability to walk  
27 due to an arthritic, neurological, or orthopedic condition.  
28       Section 175. Subsection (1) of section 322.125,  
29 Florida Statutes, is amended to read:  
30       322.125 Medical Advisory Board.--  
31

1           (1) There shall be a Medical Advisory Board composed  
2 of not fewer than 12 or more than 25 members, at least one of  
3 whom must be 60 years of age or older and all but one of whose  
4 medical and other specialties must relate to driving  
5 abilities, which number must include a doctor of medicine who  
6 is employed by the Department of Highway Safety and Motor  
7 Vehicles in Tallahassee, who shall serve as administrative  
8 officer for the board. The executive director of the  
9 Department of Highway Safety and Motor Vehicles shall  
10 recommend persons to serve as board members. Every member but  
11 two must be a doctor of medicine licensed to practice medicine  
12 in this or any other state and must be a member in good  
13 standing of the Florida Medical Association or the Florida  
14 Osteopathic Association. One member must be an optometrist  
15 licensed to practice optometry in this state and must be a  
16 member in good standing of the Florida Optometric Association.  
17 One member must be a chiropractic physician ~~chiropractor~~  
18 licensed to practice chiropractic medicine in this state.  
19 Members shall be approved by the Cabinet and shall serve  
20 4-year staggered terms. The board membership must, to the  
21 maximum extent possible, consist of equal representation of  
22 the disciplines of the medical community treating the mental  
23 or physical disabilities that could affect the safe operation  
24 of motor vehicles.

25           Section 176. Subsection (1) of section 381.0031,  
26 Florida Statutes, is amended to read:

27           381.0031 Report of diseases of public health  
28 significance to department.--

29           (1) Any practitioner, licensed in Florida to practice  
30 medicine, osteopathic medicine, chiropractic medicine,  
31 naturopathy, or veterinary medicine, who diagnoses or suspects

1 the existence of a disease of public health significance shall  
2 immediately report the fact to the Department of Health.

3 Section 177. Paragraph (b) of subsection (2) of  
4 section 381.026, Florida Statutes, is amended to read:

5 381.026 Florida Patient's Bill of Rights and  
6 Responsibilities.--

7 (2) DEFINITIONS.--As used in this section, the term:

8 (b) "Health care provider" means a physician licensed  
9 under chapter 458, an osteopathic physician licensed under  
10 chapter 459, or a podiatric physician ~~podiatrist~~ licensed  
11 under chapter 461.

12 Section 178. Section 381.0261, Florida Statutes, is  
13 amended to read:

14 381.0261 Distribution of summary.--The Department of  
15 Health and Rehabilitative Services shall have printed and made  
16 continuously available to health care facilities licensed  
17 under chapter 395, physicians licensed under chapter 458,  
18 osteopathic physicians licensed under chapter 459, and  
19 podiatric physicians ~~podiatrists~~ licensed under chapter 461 a  
20 summary of the Florida Patient's Bill of Rights and  
21 Responsibilities. In adopting and making public the summary  
22 of the Florida Patient's Bill of Rights and Responsibilities,  
23 health care providers and health care facilities are not  
24 limited to the format in which the Department of Health and  
25 Rehabilitative Services prints and distributes the summary.

26 Section 179. Paragraph (b) of subsection (2) and  
27 subsection (5) of section 381.0302, Florida Statutes, are  
28 amended to read:

29 381.0302 Florida Health Services Corps.--

30 (2) As used in this section, the term:

31

1 (b) "Florida Health Services Corps" means a program  
2 authorized by this section which:

3 1. Offers scholarships to allopathic, osteopathic,  
4 chiropractic, podiatric, dental, physician assistant, and  
5 nursing students, and loan repayment assistance and travel and  
6 relocation expenses to allopathic and osteopathic residents  
7 and physicians, chiropractic physicians ~~chiropractors~~,  
8 podiatric physicians ~~podiatrists~~, nurse practitioners,  
9 dentists, and physician assistants, in return for service in a  
10 public health care program or in a medically underserved area.

11 2. Offers membership on a voluntary basis to  
12 physicians and other health care personnel who provide  
13 uncompensated care.

14 (5) The department may award scholarships to students  
15 studying medicine, osteopathic medicine, chiropractic  
16 medicine, podiatric medicine, nursing, or dentistry.

17 (a) The program shall require a student who receives a  
18 scholarship to accept an assignment in a public health care  
19 program or work in a specific community located in a medically  
20 underserved area upon completion of primary care training.  
21 The department shall determine assignments. If a practitioner  
22 is assigned to a medically underserved area, the practitioner  
23 must treat Medicaid patients and other patients with low  
24 incomes.

25 (b) An eligible student must be pursuing a full-time  
26 course of study in:

27 1. Allopathic or osteopathic medicine, including  
28 physician assistants;

29 2. Dentistry;

30 3. Podiatric medicine;

31



1           4. Nursing, including registered nurses, nurse  
2 midwives, and other nurse practitioners; or

3           5. Chiropractic medicine.

4           (c) In selecting students to participate in the  
5 scholarship program, priority shall be given to students who  
6 indicate a desire to practice a primary care specialty in a  
7 medically underserved area after their obligation is completed  
8 and who indicate an intent to practice medical specialties for  
9 which the department has a need.

10          (d) Scholarship assistance shall consist of  
11 reimbursement for tuition and other educational costs such as  
12 books, supplies, equipment, transportation, and monthly living  
13 expense stipends. The department shall pay the same amount for  
14 living expense stipends as is paid by the National Health  
15 Services Corps. Each monthly living expense stipend shall be  
16 for a 12-month period beginning with the first month of each  
17 school year in which the student is a participant. The  
18 department may reimburse a participant for books, supplies,  
19 and equipment based on average costs incurred by participants  
20 for these items. The department shall prescribe, by rule,  
21 eligible expenses for reimbursement and allowable amounts.

22          (e) For an allopathic or osteopathic medical student,  
23 enrollment in the corps may begin in the second year of  
24 medical school or in any year thereafter. For a nursing  
25 student or other student, enrollment may occur in any year.

26          (f) For a student who receives scholarship assistance,  
27 participation in the corps after completion of training shall  
28 be 1 year for each school year of scholarship assistance, up  
29 to a maximum of 3 years. The period of obligated service  
30 shall begin when the participant is assigned by the department  
31 to a public health program or to a medically underserved area.

1           Section 180. Subsection (11) of section 382.002,  
2 Florida Statutes, is amended to read:

3           382.002 Definitions.--As used in this chapter, the  
4 term:

5           (11) "Physician" means a person authorized to practice  
6 medicine, osteopathic medicine, or chiropractic medicine  
7 pursuant to chapter 458, chapter 459, or chapter 460.

8           Section 181. Subsection (1) of section 395.0191,  
9 Florida Statutes, is amended to read:

10           395.0191 Staff membership and clinical privileges.--

11           (1) No licensed facility, in considering and acting  
12 upon an application for staff membership or clinical  
13 privileges, shall deny the application of a qualified doctor  
14 of medicine licensed under chapter 458, a doctor of  
15 osteopathic medicine licensed under chapter 459, a doctor of  
16 dentistry licensed under chapter 466, a doctor of podiatric  
17 medicine ~~podiatry~~ licensed under chapter 461, or a  
18 psychologist licensed under chapter 490 for such staff  
19 membership or clinical privileges within the scope of his or  
20 her respective licensure solely because the applicant is  
21 licensed under any of such chapters.

22           Section 182. Section 395.0195, Florida Statutes, is  
23 amended to read:

24           395.0195 Access of chiropractic physicians  
25 ~~chiropractors~~ to diagnostic reports.--Each hospital shall set  
26 standards and procedures which provide for reasonable access  
27 by licensed chiropractic physicians ~~chiropractors~~ to the  
28 reports of diagnostic X rays and laboratory tests of licensed  
29 facilities, subject to the same standards and procedures as  
30 other licensed physicians. However, this section does not  
31

1 require a licensed facility to grant staff privileges to a  
2 chiropractic physician ~~chiropractor~~.

3 Section 183. Paragraph (g) of subsection (3) of  
4 section 395.1041, Florida Statutes, is amended to read:

5 395.1041 Access to emergency services and care.--

6 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF  
7 FACILITY OR HEALTH CARE PERSONNEL.--

8 (g) Neither the hospital nor its employees, nor any  
9 physician, dentist, or podiatric physician ~~podiatrist~~ shall be  
10 liable in any action arising out of a refusal to render  
11 emergency services or care if the refusal is made after  
12 screening, examining, and evaluating the patient, and is based  
13 on the determination, exercising reasonable care, that the  
14 person is not suffering from an emergency medical condition or  
15 a determination, exercising reasonable care, that the hospital  
16 does not have the service capability or is at service capacity  
17 to render those services.

18 Section 184. Subsection (6) of section 395.301,  
19 Florida Statutes, is amended to read:

20 395.301 Itemized patient bill; form and content  
21 prescribed by the agency.--

22 (6) No physician, dentist, podiatric physician  
23 ~~podiatrist~~, or licensed facility may add to the price charged  
24 by any third party except for a service or handling charge  
25 representing a cost actually incurred as an item of expense;  
26 however, the physician, dentist, podiatric physician  
27 ~~podiatrist~~, or licensed facility is entitled to fair  
28 compensation for all professional services rendered. The  
29 amount of the service or handling charge, if any, shall be set  
30 forth clearly in the bill to the patient.

31

1 Section 185. Paragraph (b) of subsection (5) of  
2 section 404.22, Florida Statutes, is amended to read:

3 404.22 Radiation machines and components;  
4 inspection.--

5 (5)

6 (b) The fee schedule and frequency of inspections  
7 shall be determined as follows:

8 1. Radiation machines which are used in the practice  
9 of medicine, chiropractic medicine, osteopathic medicine, or  
10 naturopathic medicine shall be inspected at least once every 2  
11 years, but not more than annually, for an annual fee which is  
12 not less than \$83 or more than \$145 for the first radiation  
13 machine within an office or facility and not less than \$36 or  
14 more than \$85 for each additional radiation machine therein.

15 2. Radiation machines which are used in the practice  
16 of veterinary medicine shall be inspected at least once every  
17 3 years for an annual fee which is not less than \$28 or more  
18 than \$50 for the first radiation machine within an office or  
19 facility and not less than \$19 or more than \$34 for each  
20 additional radiation machine therein.

21 3. Radiation machines which are used for educational  
22 or industrial purposes shall be inspected at least once every  
23 3 years for an annual fee which is not less than \$26 or more  
24 than \$47 for the first radiation machine within an office or  
25 facility and not less than \$12 or more than \$23 for each  
26 additional radiation machine therein.

27 4. Radiation machines which are used in the practice  
28 of dentistry or podiatric medicine ~~podiatry~~ shall be inspected  
29 at least once every 5 years but not more often than once every  
30 4 years for an annual fee which is not less than \$16 or more  
31 than \$31 for the first radiation machine within an office or

1 facility and not less than \$5 or more than \$11 for each  
2 additional radiation machine therein.

3           5. Radiation machines which accelerate particles and  
4 are used in the healing arts shall be inspected at least  
5 annually for an annual fee which is not less than \$153 or more  
6 than \$258 for the first radiation machine within an office or  
7 facility and not less than \$87 or more than \$148 for each  
8 additional radiation machine therein.

9           6. Radiation machines which accelerate particles and  
10 are used for educational or industrial purposes shall be  
11 inspected at least once every 2 years for an annual fee which  
12 is not less than \$46 or more than \$81 for the first radiation  
13 machine within an office or facility and not less than \$26 or  
14 more than \$48 for each additional radiation machine therein.

15           7. If a radiation machine fails to meet the applicable  
16 standards upon initial inspection, the department may  
17 reinspect the radiation machine and charge a reinspection fee  
18 in accordance with the same schedule of fees as in  
19 subparagraphs 1. through 6.

20           Section 186. Subsection (18) of section 409.906,  
21 Florida Statutes, is amended to read:

22           409.906 Optional Medicaid services.--Subject to  
23 specific appropriations, the agency may make payments for  
24 services which are optional to the state under Title XIX of  
25 the Social Security Act and are furnished by Medicaid  
26 providers to recipients who are determined to be eligible on  
27 the dates on which the services were provided. Any optional  
28 service that is provided shall be provided only when medically  
29 necessary and in accordance with state and federal law.  
30 Nothing in this section shall be construed to prevent or limit  
31 the agency from adjusting fees, reimbursement rates, lengths

1 of stay, number of visits, or number of services, or making  
2 any other adjustments necessary to comply with the  
3 availability of moneys and any limitations or directions  
4 provided for in the General Appropriations Act or chapter 216.  
5 Optional services may include:

6 (18) PODIATRIC SERVICES.--The agency may pay for  
7 services, including diagnosis and medical, surgical,  
8 palliative, and mechanical treatment, related to ailments of  
9 the human foot and lower leg, if provided to a recipient by a  
10 podiatric physician ~~podiatrist~~ licensed under state law.

11 Section 187. Paragraph (a) of subsection (1) of  
12 section 415.1034, Florida Statutes, is amended to read:

13 415.1034 Mandatory reporting of abuse, neglect, or  
14 exploitation of disabled adults or elderly persons; mandatory  
15 reports of death.--

16 (1) MANDATORY REPORTING.--

17 (a) Any person, including, but not limited to, any:

18 1. Physician, osteopathic physician, medical examiner,  
19 chiropractic physician ~~chiropractor~~, nurse, or hospital  
20 personnel engaged in the admission, examination, care, or  
21 treatment of disabled adults or elderly persons;

22 2. Health professional or mental health professional  
23 other than one listed in subparagraph 1.;

24 3. Practitioner who relies solely on spiritual means  
25 for healing;

26 4. Nursing home staff; assisted living facility staff;  
27 adult day care center staff; adult family-care home staff;  
28 social worker; or other professional adult care, residential,  
29 or institutional staff;

30 5. State, county, or municipal criminal justice  
31 employee or law enforcement officer;

1           6. Human rights advocacy committee or long-term care  
2 ombudsman council member; or

3           7. Bank, savings and loan, or credit union officer,  
4 trustee, or employee,

5  
6 who knows, or has reasonable cause to suspect, that a disabled  
7 adult or an elderly person has been or is being abused,  
8 neglected, or exploited shall immediately report such  
9 knowledge or suspicion to the central abuse registry and  
10 tracking system on the single statewide toll-free telephone  
11 number.

12           Section 188. Subsection (14) of section 415.503,  
13 Florida Statutes, is amended to read:

14           415.503 Definitions of terms used in ss.  
15 415.502-415.514.--As used in ss. 415.502-415.514:

16           (14) "Physician" means any licensed physician,  
17 dentist, podiatric physician ~~podiatrist~~, or optometrist and  
18 includes any intern or resident.

19           Section 189. Paragraph (a) of subsection (1) of  
20 section 415.504, Florida Statutes, is amended to read:

21           415.504 Mandatory reports of child abuse or neglect;  
22 mandatory reports of death; central abuse hotline.--

23           (1) Any person, including, but not limited to, any:

24           (a) Physician, osteopathic physician, medical  
25 examiner, chiropractic physician ~~chiropractor~~, nurse, or  
26 hospital personnel engaged in the admission, examination,  
27 care, or treatment of persons;

28  
29 who knows, or has reasonable cause to suspect, that a child is  
30 an abused, abandoned, or neglected child shall report such  
31

1 knowledge or suspicion to the department in the manner  
2 prescribed in subsection (2).

3 Section 190. Subsection (2) of section 440.106,  
4 Florida Statutes, is amended to read:

5 440.106 Civil remedies; administrative penalties.--

6 (2) Whenever a physician, osteopathic physician,  
7 chiropractic physician ~~chiropractor~~, podiatric physician  
8 ~~podiatrist~~, or other practitioner is determined to have  
9 violated s. 440.105, the Board of Medicine as set forth in  
10 chapter 458, the Board of Osteopathic Medicine as set forth in  
11 chapter 459, the Board of Chiropractic Medicine as set forth  
12 in chapter 460, the Board of Podiatric Medicine as set forth  
13 in chapter 461, or other appropriate licensing authority,  
14 shall hold an administrative hearing to consider the  
15 imposition of administrative sanctions as provided by law  
16 against said physician, osteopathic physician, chiropractic  
17 physician ~~chiropractor~~, or other practitioner.

18 Section 191. Paragraph (r) of subsection (1) of  
19 section 440.13, Florida Statutes, is amended to read:

20 440.13 Medical services and supplies; penalty for  
21 violations; limitations.--

22 (1) DEFINITIONS.--As used in this section, the term:

23 (r) "Physician" or "doctor" means a physician licensed  
24 under chapter 458, an osteopathic physician licensed under  
25 chapter 459, a chiropractic physician ~~chiropractor~~ licensed  
26 under chapter 460, a podiatric physician ~~podiatrist~~ licensed  
27 under chapter 461, an optometrist licensed under chapter 463,  
28 or a dentist licensed under chapter 466, each of whom must be  
29 certified by the division as a health care provider.

30 Section 192. Paragraph (k) of subsection (1) of  
31 section 440.134, Florida Statutes, is amended to read:



1           440.134 Workers' compensation managed care  
2 arrangement.--

3           (1) As used in this section, the term:

4           (k) "Primary care provider" means, except in the case  
5 of emergency treatment, the initial treating physician and,  
6 when appropriate, continuing treating physician, who may be a  
7 family practitioner, general practitioner, or internist  
8 physician licensed under chapter 458; a family practitioner,  
9 general practitioner, or internist osteopathic physician  
10 licensed under chapter 459; a chiropractic physician  
11 ~~chiropractor~~ licensed under chapter 460; a podiatric physician  
12 ~~podiatrist~~ licensed under chapter 461; an optometrist licensed  
13 under chapter 463; or a dentist licensed under chapter 466.

14           Section 193. Paragraph (a) of subsection (3) of  
15 section 440.15, Florida Statutes, is amended to read:

16           440.15 Compensation for disability.--Compensation for  
17 disability shall be paid to the employee, subject to the  
18 limits provided in s. 440.12(2), as follows:

19           (3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.--

20           (a) Impairment benefits.--

21           1. Once the employee has reached the date of maximum  
22 medical improvement, impairment benefits are due and payable  
23 within 20 days after the carrier has knowledge of the  
24 impairment.

25           2. The three-member panel, in cooperation with the  
26 division, shall establish and use a uniform permanent  
27 impairment rating schedule. This schedule must be based on  
28 medically or scientifically demonstrable findings as well as  
29 the systems and criteria set forth in the American Medical  
30 Association's Guides to the Evaluation of Permanent  
31 Impairment; the Snellen Charts, published by American Medical

1 Association Committee for Eye Injuries; and the Minnesota  
2 Department of Labor and Industry Disability Schedules. The  
3 schedule should be based upon objective findings. The schedule  
4 shall be more comprehensive than the AMA Guides to the  
5 Evaluation of Permanent Impairment and shall expand the areas  
6 already addressed and address additional areas not currently  
7 contained in the guides. On August 1, 1979, and pending the  
8 adoption, by rule, of a permanent schedule, Guides to the  
9 Evaluation of Permanent Impairment, copyright 1977, 1971,  
10 1988, by the American Medical Association, shall be the  
11 temporary schedule and shall be used for the purposes hereof.  
12 For injuries after July 1, 1990, pending the adoption by  
13 division rule of a uniform disability rating schedule, the  
14 Minnesota Department of Labor and Industry Disability Schedule  
15 shall be used unless that schedule does not address an injury.  
16 In such case, the Guides to the Evaluation of Permanent  
17 Impairment by the American Medical Association shall be used.  
18 Determination of permanent impairment under this schedule must  
19 be made by a physician licensed under chapter 458, a doctor of  
20 osteopathic medicine licensed under chapters 458 and 459, a  
21 chiropractic physician ~~chiropractor~~ licensed under chapter  
22 460, a podiatric physician ~~podiatrist~~ licensed under chapter  
23 461, an optometrist licensed under chapter 463, or a dentist  
24 licensed under chapter 466, as appropriate considering the  
25 nature of the injury. No other persons are authorized to  
26 render opinions regarding the existence of or the extent of  
27 permanent impairment.

28         3. All impairment income benefits shall be based on an  
29 impairment rating using the impairment schedule referred to in  
30 subparagraph 2. Impairment income benefits are paid weekly at  
31 the rate of 50 percent of the employee's average weekly

1 temporary total disability benefit not to exceed the maximum  
2 weekly benefit under s. 440.12. An employee's entitlement to  
3 impairment income benefits begins the day after the employee  
4 reaches maximum medical improvement or the expiration of  
5 temporary benefits, whichever occurs earlier, and continues  
6 until the earlier of:

7       a. The expiration of a period computed at the rate of  
8 3 weeks for each percentage point of impairment; or  
9       b. The death of the employee.

10       4. After the employee has been certified by a doctor  
11 as having reached maximum medical improvement or 6 weeks  
12 before the expiration of temporary benefits, whichever occurs  
13 earlier, the certifying doctor shall evaluate the condition of  
14 the employee and assign an impairment rating, using the  
15 impairment schedule referred to in subparagraph 2.  
16 Compensation is not payable for the mental, psychological, or  
17 emotional injury arising out of depression from being out of  
18 work. If the certification and evaluation are performed by a  
19 doctor other than the employee's treating doctor, the  
20 certification and evaluation must be submitted to the treating  
21 doctor, and the treating doctor must indicate agreement or  
22 disagreement with the certification and evaluation. The  
23 certifying doctor shall issue a written report to the  
24 division, the employee, and the carrier certifying that  
25 maximum medical improvement has been reached, stating the  
26 impairment rating, and providing any other information  
27 required by the division. If the employee has not been  
28 certified as having reached maximum medical improvement before  
29 the expiration of 102 weeks after the date temporary total  
30 disability benefits begin to accrue, the carrier shall notify  
31 the treating doctor of the requirements of this section.

1           5. The carrier shall pay the employee impairment  
2 income benefits for a period based on the impairment rating.

3           Section 194. Paragraph (a) of subsection (3) of  
4 section 455.654, Florida Statutes, is amended to read:

5           455.654 Financial arrangements between referring  
6 health care providers and providers of health care services.--

7           (3) DEFINITIONS.--For the purpose of this section, the  
8 word, phrase, or term:

9           (a) "Board" means any of the following boards relating  
10 to the respective professions: the Board of Medicine as  
11 created in s. 458.307; the Board of Osteopathic Medicine as  
12 created in s. 459.004; the Board of Chiropractic Medicine as  
13 created in s. 460.404; the Board of Podiatric Medicine as  
14 created in s. 461.004; the Board of Optometry as created in s.  
15 463.003; the Board of Pharmacy as created in s. 465.004; and  
16 the Board of Dentistry as created in s. 466.004.

17           Section 195. Section 455.684, Florida Statutes, is  
18 amended to read:

19           455.684 Chiropractic and podiatric health care; denial  
20 of payment; limitation.--A chiropractic physician licensed  
21 under chapter 460 or a podiatric physician ~~podiatrist~~ licensed  
22 under chapter 461 shall not be denied payment for treatment  
23 rendered solely on the basis that the chiropractic physician  
24 ~~chiropractor~~ or podiatric physician ~~podiatrist~~ is not a member  
25 of a particular preferred provider organization or exclusive  
26 provider organization which is composed only of physicians  
27 licensed under the same chapter.

28           Section 196. Paragraph (a) of subsection (1) of  
29 section 455.691, Florida Statutes, is amended to read:

30           455.691 Treatment of Medicare beneficiaries; refusal,  
31 emergencies, consulting physicians.--

1           (1) Effective as of January 1, 1993, as used in this  
2 section, the term:

3           (a) "Physician" means a physician licensed under  
4 chapter 458, an osteopathic physician licensed under chapter  
5 459, a chiropractic physician ~~chiropractor~~ licensed under  
6 chapter 460, a podiatric physician ~~podiatrist~~ licensed under  
7 chapter 461, or an optometrist licensed under chapter 463.

8           Section 197. Subsection (1) of section 455.694,  
9 Florida Statutes, is amended to read:

10           455.694 Boards regulating certain health care  
11 practitioners.--

12           (1) As a prerequisite for licensure or license  
13 renewal, the Board of Acupuncture, the Board of Chiropractic  
14 Medicine, the Board of Podiatric Medicine, and the Board of  
15 Dentistry shall, by rule, require that all health care  
16 practitioners licensed under the respective board, and the  
17 Board of Nursing shall, by rule, require that advanced  
18 registered nurse practitioners certified under s. 464.012,  
19 maintain medical malpractice insurance or provide proof of  
20 financial responsibility in an amount and in a manner  
21 determined by the board to be sufficient to cover claims  
22 arising out of the rendering of or failure to render  
23 professional care and services in this state.

24           Section 198. Subsection (1) of section 455.697,  
25 Florida Statutes, is amended to read:

26           455.697 Health care practitioners; reports on  
27 professional liability claims and actions.--

28           (1) Any practitioner of medicine licensed pursuant to  
29 the provisions of chapter 458, practitioner of osteopathic  
30 medicine licensed pursuant to the provisions of chapter 459,  
31 podiatric physician ~~podiatrist~~ licensed pursuant to the

1 provisions of chapter 461, or dentist licensed pursuant to the  
2 provisions of chapter 466 shall report to the department any  
3 claim or action for damages for personal injury alleged to  
4 have been caused by error, omission, or negligence in the  
5 performance of such licensee's professional services or based  
6 on a claimed performance of professional services without  
7 consent if the claim was not covered by an insurer required to  
8 report under s. 627.912 and the claim resulted in:

9 (a) A final judgment in any amount.

10 (b) A settlement in any amount.

11 (c) A final disposition not resulting in payment on  
12 behalf of the licensee.

13  
14 Reports shall be filed with the department no later than 60  
15 days following the occurrence of any event listed in paragraph  
16 (a), paragraph (b), or paragraph (c).

17 Section 199. Subsection (2) of section 455.698,  
18 Florida Statutes, is amended to read:

19 455.698 Reports of professional liability actions;  
20 bankruptcies; Department of Health's responsibility to  
21 provide.--

22 (2) Any information in the possession of the  
23 Department of Health which relates to a bankruptcy proceeding  
24 by a practitioner of medicine licensed under chapter 458, a  
25 practitioner of osteopathic medicine licensed under chapter  
26 459, a podiatric physician ~~podiatrist~~ licensed under chapter  
27 461, or a dentist licensed under chapter 466 is public  
28 information. The Department of Health shall, upon request,  
29 make such information available to any person.

30 Section 200. Subsection (2) of section 456.31, Florida  
31 Statutes, is amended to read:

1           456.31 Legislative intent.--

2           (2) It is the intent of the Legislature to provide for  
3 certain practitioners of the healing arts, such as a trained  
4 and qualified dentist, to use hypnosis for hypnoanesthesia or  
5 for the allaying of anxiety in relation to dental work;  
6 however, under no circumstances shall it be legal or proper  
7 for the dentist or the individual to whom the dentist may  
8 refer the patient, to use hypnosis for the treatment of the  
9 neurotic difficulties of a patient. The same applies to the  
10 optometrist, podiatric physician ~~podiatrist~~, chiropractic  
11 physician ~~chiropractor~~, osteopathic physician, or physician of  
12 medicine.

13           Section 201. Subsections (2) and (3) of section  
14 456.32, Florida Statutes, are amended to read:

15           456.32 Definitions.--In construing this chapter, the  
16 words, phrases, or terms, unless the context otherwise  
17 indicates, shall have the following meanings:

18           (2) "Healing arts" shall mean the practice of  
19 medicine, surgery, psychiatry, dentistry, osteopathic  
20 medicine, chiropractic medicine, naturopathy, podiatric  
21 medicine ~~podiatry~~, chiropody, psychology, clinical social  
22 work, marriage and family therapy, mental health counseling,  
23 and optometry.

24           (3) "Practitioner of the healing arts" shall mean a  
25 person licensed under the laws of the state to practice  
26 medicine, surgery, psychiatry, dentistry, osteopathic  
27 medicine, chiropractic medicine, naturopathy, podiatric  
28 medicine ~~podiatry~~, chiropody, psychology, clinical social  
29 work, marriage and family therapy, mental health counseling,  
30 or optometry within the scope of his or her professional  
31 training and competence and within the purview of the statutes

1 applicable to his or her respective profession, and who may  
2 refer a patient for treatment by a qualified person, who shall  
3 employ hypnotic techniques under the supervision, direction,  
4 prescription, and responsibility of such referring  
5 practitioner.

6 Section 202. The catchline of section 459.002, Florida  
7 Statutes, is amended to read:

8 459.002 Chapter not applicable to practice of  
9 medicine, surgery, chiropractic medicine, etc.--

10 Section 203. Chapter 460, Florida Statutes, entitled  
11 "Chiropractic," is retitled "Chiropractic Medicine."

12 Section 204. Subsections (2) and (4) and paragraphs  
13 (a) and (e) of subsection (8) of section 460.403, Florida  
14 Statutes, are amended to read:

15 460.403 Definitions.--As used in this chapter, the  
16 term:

17 (2) "Board" means the Board of Chiropractic Medicine.

18 (4) "Chiropractic physician" means any person licensed  
19 to practice chiropractic medicine pursuant to this chapter.

20 (8)(a) "Practice of chiropractic medicine" means a  
21 noncombative principle and practice consisting of the science,  
22 philosophy, and art of the adjustment, manipulation, and  
23 treatment of the human body in which vertebral subluxations  
24 and other malpositioned articulations and structures that are  
25 interfering with the normal generation, transmission, and  
26 expression of nerve impulse between the brain, organs, and  
27 tissue cells of the body, thereby causing disease, are  
28 adjusted, manipulated, or treated, thus restoring the normal  
29 flow of nerve impulse which produces normal function and  
30 consequent health by chiropractic physicians using specific  
31 chiropractic adjustment or manipulation techniques taught in



1 chiropractic colleges accredited by the Council on  
2 Chiropractic Education. No person other than a licensed  
3 chiropractic physician may render chiropractic services,  
4 chiropractic adjustments, or chiropractic manipulations.

5 (e) The term "chiropractic medicine," "chiropractic,"  
6 "doctor of chiropractic," or "chiropractor" shall be  
7 synonymous with "chiropractic physician," and each term shall  
8 be construed to mean a practitioner of chiropractic medicine  
9 as the same has been defined herein. Chiropractic physicians  
10 may analyze and diagnose the physical conditions of the human  
11 body to determine the abnormal functions of the human organism  
12 and to determine such functions as are abnormally expressed  
13 and the cause of such abnormal expression.

14 Section 205. Section 460.404, Florida Statutes, is  
15 amended to read:

16 460.404 Board of Chiropractic Medicine; membership;  
17 appointment; terms.--

18 (1) The Board of Chiropractic Medicine is created  
19 within the department and shall consist of seven members to be  
20 appointed by the Governor and confirmed by the Senate.

21 (2) Five members of the board must be licensed  
22 chiropractic physicians who are residents of the state and who  
23 have been licensed chiropractic physicians engaged in the  
24 practice of chiropractic medicine for at least 4 years. The  
25 remaining two members must be residents of the state who are  
26 not, and have never been, licensed as chiropractic physicians  
27 or members of any closely related profession. At least one  
28 member of the board must be 60 years of age or older.

29 (3) As the terms of the members expire, the Governor  
30 shall appoint successors for terms of 4 years, and such  
31 members shall serve until their successors are appointed.

1           (4) All provisions of part II of chapter 455 relating  
2 to the board shall apply.

3           Section 206. Section 460.405, Florida Statutes, is  
4 amended to read:

5           460.405 Authority to make rules.--The Board of  
6 Chiropractic Medicine is authorized to make such rules not  
7 inconsistent with law as are necessary to carry out the duties  
8 and authority conferred upon the board by this chapter.

9           Section 207. Paragraphs (c) and (e) of subsection (1)  
10 and subsection (3) of section 460.406, Florida Statutes, are  
11 amended to read:

12           460.406 Licensure by examination.--

13           (1) Any person desiring to be licensed as a  
14 chiropractic physician shall apply to the department to take  
15 the licensure examination. There shall be an application fee  
16 set by the board not to exceed \$100 which shall be  
17 nonrefundable. There shall also be an examination fee not to  
18 exceed \$500 plus the actual per applicant cost to the  
19 department for purchase of portions of the examination from  
20 the National Board of Chiropractic Examiners or a similar  
21 national organization, which may be refundable if the  
22 applicant is found ineligible to take the examination. The  
23 department shall examine each applicant who the board  
24 certifies has:

25           (c) Submitted proof satisfactory to the department  
26 that he or she is a graduate of a chiropractic college which  
27 is accredited by or has status with the Council on  
28 Chiropractic Education or its predecessor agency. However, any  
29 applicant who is a graduate of a chiropractic college that was  
30 initially accredited by the Council on Chiropractic Education  
31 in 1995, who graduated from such college within the 4 years

1 immediately preceding such accreditation, and who is otherwise  
2 qualified shall be eligible to take the examination. No  
3 application for a license to practice chiropractic medicine  
4 shall be denied solely because the applicant is a graduate of  
5 a chiropractic college that subscribes to one philosophy of  
6 chiropractic medicine as distinguished from another.

7 (e) Completed not less than a 3-month training program  
8 in this state of not less than 300 hours with a chiropractic  
9 physician licensed in this state. The chiropractic physician  
10 candidate may perform all services offered by the licensed  
11 chiropractic physician, but must be under the supervision of  
12 the licensed chiropractic physician until the results of the  
13 first licensure examination for which the candidate has  
14 qualified have been received, at which time the candidate's  
15 training program shall be terminated. However, an applicant  
16 who has practiced chiropractic medicine in any other state,  
17 territory, or jurisdiction of the United States or any foreign  
18 national jurisdiction for at least 5 years as a licensed  
19 chiropractic physician need not be required to complete the  
20 3-month training program as a requirement for licensure.

21 (3) An applicant for the licensure examination may  
22 elect not to take the certification examination to use  
23 acupuncture. The department shall, in addition to the  
24 licensing exam, offer an examination for certification to use  
25 acupuncture. An applicant may elect to take the certification  
26 examination at the time of taking the licensure examination.  
27 Passage of the certification examination shall not grant any  
28 applicant the right to practice chiropractic medicine absent  
29 the passage of the licensing examination.

30 Section 208. Paragraph (b) of subsection (1) of  
31 section 460.408, Florida Statutes, is amended to read:

1           460.408 Continuing chiropractic education.--

2           (1) The board shall require licensees to periodically  
3 demonstrate their professional competence as a condition of  
4 renewal of a license by completing up to 40 hours of  
5 continuing education.

6           (b) The board shall approve those courses that build  
7 upon the basic courses required for the practice of  
8 chiropractic medicine, and the board may also approve courses  
9 in adjunctive modalities.

10           Section 209. Subsection (1) and paragraph (c) of  
11 subsection (2) of section 460.411, Florida Statutes, are  
12 amended to read:

13           460.411 Violations and penalties.--

14           (1) Each of the following acts constitutes a violation  
15 of this chapter and is a felony of the third degree,  
16 punishable as provided in s. 775.082, s. 775.083, or s.  
17 775.084:

18           (a) Practicing or attempting to practice chiropractic  
19 medicine without an active license or with a license  
20 fraudulently obtained.

21           (b) Using or attempting to use a license to practice  
22 chiropractic medicine which has been suspended or revoked.

23           (2) Each of the following acts constitutes a violation  
24 of this chapter and is a misdemeanor of the first degree,  
25 punishable as provided in s. 775.082 or s. 775.083:

26           (c) Using the name or title "chiropractic physician,"  
27 "doctor of chiropractic," "chiropractic medicine," or any  
28 other name or title which would lead the public to believe  
29 that such person is engaging in the practice of chiropractic  
30 medicine, unless such person is licensed as a chiropractic  
31 physician in this state.

1           Section 210. Section 460.412, Florida Statutes, is  
2 amended to read:

3           460.412 Sexual misconduct in the practice of  
4 chiropractic medicine.--The chiropractic physician-patient  
5 relationship is founded on mutual trust. Sexual misconduct in  
6 the practice of chiropractic medicine means violation of the  
7 chiropractic physician-patient relationship through which the  
8 chiropractic physician uses said relationship to induce or  
9 attempt to induce the patient to engage, or to engage or  
10 attempt to engage the patient, in sexual activity outside the  
11 scope of practice or the scope of generally accepted  
12 examination or treatment of the patient. Sexual misconduct in  
13 the practice of chiropractic medicine is prohibited.

14           Section 211. Paragraphs (a), (b), (c), (h), (k), (m),  
15 (q), (r), and (s) of subsection (1) and subsection (3) of  
16 section 460.413, Florida Statutes, are amended to read:

17           460.413 Grounds for disciplinary action; action by the  
18 board.--

19           (1) The following acts shall constitute grounds for  
20 which the disciplinary actions specified in subsection (2) may  
21 be taken:

22           (a) Attempting to obtain, obtaining, or renewing a  
23 license to practice chiropractic medicine by bribery, by  
24 fraudulent misrepresentations, or through an error of the  
25 department or the board.

26           (b) Having a license to practice chiropractic medicine  
27 revoked, suspended, or otherwise acted against, including the  
28 denial of licensure, by the licensing authority of another  
29 state, territory, or country.

30           (c) Being convicted or found guilty, regardless of  
31 adjudication, of a crime in any jurisdiction which directly

1 relates to the practice of chiropractic medicine or to the  
2 ability to practice chiropractic medicine. Any plea of nolo  
3 contendere shall be considered a conviction for purposes of  
4 this chapter.

5 (h) Aiding, assisting, procuring, or advising any  
6 unlicensed person to practice chiropractic medicine contrary  
7 to this chapter or to a rule of the department or the board.

8 (k) Making misleading, deceptive, untrue, or  
9 fraudulent representations in the practice of chiropractic  
10 medicine or employing a trick or scheme in the practice of  
11 chiropractic medicine when such trick or scheme fails to  
12 conform to the generally prevailing standards of treatment in  
13 the chiropractic medical community.

14 (m) Failing to keep legibly written chiropractic  
15 medical records that identify clearly by name and credentials  
16 the licensed chiropractic physician rendering, ordering,  
17 supervising, or billing for each examination or treatment  
18 procedure and that justify the course of treatment of the  
19 patient, including, but not limited to, patient histories,  
20 examination results, test results, X rays, and diagnosis of a  
21 disease, condition, or injury. X rays need not be retained  
22 for more than 4 years.

23 (q) Being unable to practice chiropractic medicine  
24 with reasonable skill and safety to patients by reason of  
25 illness or use of alcohol, drugs, narcotics, chemicals, or any  
26 other type of material or as a result of any mental or  
27 physical condition. In enforcing this paragraph, upon a  
28 finding by the secretary of the department, or his or her  
29 designee, or the probable cause panel of the board that  
30 probable cause exists to believe that the licensee is unable  
31 to practice the profession because of reasons stated in this

1 paragraph, the department shall have the authority to compel a  
2 licensee to submit to a mental or physical examination by a  
3 physician designated by the department. If the licensee  
4 refuses to comply with the department's order, the department  
5 may file a petition for enforcement in the circuit court of  
6 the circuit in which the licensee resides or does business.  
7 The department shall be entitled to the summary procedure  
8 provided in s. 51.011. The record of proceedings to obtain a  
9 compelled mental or physical examination shall not be used  
10 against a licensee in any other proceedings. A chiropractic  
11 physician affected under this paragraph shall at reasonable  
12 intervals be afforded an opportunity to demonstrate that she  
13 or he can resume the competent practice of chiropractic  
14 medicine with reasonable skill and safety to patients.

15 (r) Gross or repeated malpractice or the failure to  
16 practice chiropractic medicine at a level of care, skill, and  
17 treatment which is recognized by a reasonably prudent  
18 chiropractic physician as being acceptable under similar  
19 conditions and circumstances. The board shall give great  
20 weight to the standards for malpractice in s. 766.102 in  
21 interpreting this provision. A recommended order by an  
22 administrative law judge, or a final order of the board  
23 finding a violation under this section shall specify whether  
24 the licensee was found to have committed "gross malpractice,"  
25 "repeated malpractice," or "failure to practice chiropractic  
26 medicine with that level of care, skill, and treatment which  
27 is recognized as being acceptable under similar conditions and  
28 circumstances" or any combination thereof, and any publication  
29 by the board shall so specify.

30 (s) Performing any procedure or prescribing any  
31 therapy which, by the prevailing standards of chiropractic

1 medical practice in the community, would constitute  
2 experimentation on human subjects, without first obtaining  
3 full, informed, and written consent.

4 (3) The department shall not reinstate the license of  
5 a chiropractic physician, or cause a license to be issued to a  
6 person the board has deemed unqualified, until such time as  
7 the board is satisfied that she or he has complied with all  
8 the terms and conditions set forth in the final order and that  
9 such person is capable of safely engaging in the practice of  
10 chiropractic medicine.

11 Section 212. Subsection (1) of section 460.4166,  
12 Florida Statutes, is amended to read:

13 460.4166 Registered chiropractic assistants.--

14 (1) DEFINITION.--As used in this section, "registered  
15 chiropractic assistant" means a professional, multiskilled  
16 person dedicated to assisting in all aspects of chiropractic  
17 medical practice under the direct supervision and  
18 responsibility of a chiropractic physician. A registered  
19 chiropractic assistant assists with patient care management,  
20 executes administrative and clinical procedures, and often  
21 performs managerial and supervisory functions. Competence in  
22 the field also requires that a registered chiropractic  
23 assistant adhere to ethical and legal standards of  
24 professional practice, recognize and respond to emergencies,  
25 and demonstrate professional characteristics.

26 Section 213. Chapter 461, Florida Statutes, entitled  
27 "Podiatry," is retitled "Podiatric Medicine."

28 Section 214. Section 461.001, Florida Statutes, is  
29 amended to read:

30 461.001 Legislative findings; intent; scope.--The  
31 Legislature finds that the practice of podiatric medicine by



1 unskilled and incompetent practitioners presents a danger to  
2 the public health and safety. The Legislature finds further  
3 that it is difficult for the public to make an informed choice  
4 about podiatric physicians ~~podiatrists~~ and that the  
5 consequences of a wrong choice could seriously endanger their  
6 health and safety. The sole legislative purpose for enacting  
7 this chapter is to ensure that every podiatric physician  
8 ~~podiatrist~~ practicing in this state meet minimum requirements  
9 for safe practice. It is the legislative intent that  
10 podiatric physicians ~~podiatrists~~ who fall below minimum  
11 competency or who otherwise present a danger to the public  
12 health be prohibited from practicing in this state.

13 Section 215. Subsection (3) of section 461.002,  
14 Florida Statutes, is amended to read:

15 461.002 Exceptions.--

16 (3) This chapter shall not apply to the practice of  
17 podiatric medicine by graduate podiatric physicians  
18 ~~podiatrists~~ in the United States Army, Air Force, Marines,  
19 Navy, Public Health Service, Coast Guard, or United States  
20 Department of Veterans Affairs in the discharge of their  
21 official duties.

22 Section 216. Subsections (3) and (4) of section  
23 461.003, Florida Statutes, are amended to read:

24 461.003 Definitions.--As used in this chapter:

25 (3) "Practice of podiatric medicine" means the  
26 diagnosis or medical, surgical, palliative, and mechanical  
27 treatment of ailments of the human foot and leg. The surgical  
28 treatment of ailments of the human foot and leg shall be  
29 limited anatomically to that part below the anterior tibial  
30 tubercle. The practice of podiatric medicine shall include  
31 the amputation of the toes or other parts of the foot but

1 shall not include the amputation of the foot or leg in its  
2 entirety. A podiatric physician ~~podiatrist~~ may prescribe  
3 drugs that relate specifically to the scope of practice  
4 authorized herein.

5 (4) "Podiatric physician ~~Podiatrist~~" means any person  
6 licensed to practice podiatric medicine pursuant to this  
7 chapter.

8 Section 217. Subsections (2) and (4) of section  
9 461.004, Florida Statutes, are amended to read:

10 461.004 Board of Podiatric Medicine; membership;  
11 appointment; terms.--

12 (2) Five members of the board must be licensed  
13 podiatric physicians ~~podiatrists~~ who are residents of the  
14 state and who have been licensed podiatric physicians  
15 ~~podiatrists~~ engaged in the practice of podiatric medicine for  
16 at least 4 years. The remaining two members must be residents  
17 of the state who are not, and have never been, licensed as  
18 podiatric physicians ~~podiatrists~~ or members of any closely  
19 related profession. At least one member of the board must be  
20 60 years of age or older.

21 (4) All provisions of part II of chapter 455 relating  
22 to the board shall apply. However, notwithstanding the  
23 requirement of s. ~~455.621~~455.225(4) that the board provide by  
24 rule for the determination of probable cause by a panel  
25 composed of its members or by the department, the board may  
26 provide by rule that its probable cause panel may be composed  
27 of one current member of the board and one past member of the  
28 board, as long as the past member is a licensed podiatric  
29 physician ~~podiatrist~~ in good standing. The past board member  
30 must be appointed to the panel by the chair of the board with  
31 the approval of the secretary for a maximum of 2 years.

1 Section 218. Subsection (1) of section 461.006,  
2 Florida Statutes, is amended to read:

3 461.006 Licensure by examination.--

4 (1) Any person desiring to be licensed as a podiatric  
5 physician ~~podiatrist~~ shall apply to the department to take the  
6 licensure examination. The department shall examine each  
7 applicant who the board certifies:

8 (a) Has completed the application form and remitted a  
9 nonrefundable application fee set by the board not to exceed  
10 \$100 and an examination fee set by the board not to exceed  
11 \$350.

12 (b) Is at least 18 years of age.

13 (c) Has received a degree from a school or college of  
14 podiatric medicine or chiropody recognized and approved by the  
15 Council on Podiatry Education of the American Podiatric  
16 Medical Association. For applicants who matriculated prior to  
17 1953, the course of study shall have been at least 3 years.  
18 For applicants who matriculated during or subsequent to 1953,  
19 the course of study shall be at least 4 years or the total  
20 hourly equivalent of a 4-year course of study.

21 (d) Beginning October 1, 1995, has satisfactorily  
22 completed one of the following clinical experience  
23 requirements:

24 1. One year of residency in a residency program  
25 approved by the board.

26 2. Ten years of continuous, active licensed practice  
27 of podiatric medicine in another state immediately preceding  
28 the submission of the application and completion of at least  
29 the same continuing educational requirements during those 10  
30 years as are required of podiatric physicians ~~podiatrists~~  
31 licensed in this state.

1 (e) Has submitted to the department a set of  
2 fingerprints on a form and under procedures specified by the  
3 department, along with payment in an amount equal to the costs  
4 incurred by the Department of Health for the criminal  
5 background check of the applicant.

6 Section 219. Section 461.009, Florida Statutes, is  
7 amended to read:

8 461.009 Itemized patient billing.--Whenever a  
9 podiatric physician ~~podiatrist~~ licensed under this chapter  
10 renders professional services to a patient, the podiatric  
11 physician ~~podiatrist~~ is required, upon request, to submit to  
12 the patient, to the patient's insurer, or to the  
13 administrative agency for any federal or state health program  
14 under which the patient is entitled to benefits, an itemized  
15 statement of the specific services rendered and the charge for  
16 each, no later than the podiatric physician's ~~podiatrist's~~  
17 next regular billing cycle which follows the fifth day after  
18 rendering of professional services. A podiatric physician  
19 ~~podiatrist~~ may not condition the furnishing of an itemized  
20 statement upon prior payment of the bill.

21 Section 220. Paragraphs (a) and (c) of subsection (2)  
22 of section 461.012, Florida Statutes, are amended to read:

23 461.012 Violations and penalties.--

24 (2) Each of the following acts constitutes a violation  
25 of this chapter and is a misdemeanor of the first degree,  
26 punishable as provided in s. 775.082 or s. 775.083:

27 (a) Selling or fraudulently obtaining or furnishing  
28 any podiatric medicine ~~podiatry~~ diploma, license, or record of  
29 registration or aiding or abetting in the same.

30 (c) Using the name or title "Podiatric Physician,"  
31 "Podiatrist," "Doctor of Podiatry," or "Doctor of Podiatric

1 Medicine" or using the phrase "foot clinic," "foot doctor,"  
2 "quiropedista," or any other name, title, or phrase which  
3 would lead the public to believe that such person is engaging  
4 in the practice of podiatric medicine unless such person is  
5 licensed as a podiatric physician ~~podiatrist~~ in this state.

6 Section 221. Paragraphs (h), (i), (o), (p), (r), (s),  
7 (w), and (aa) of subsection (1), paragraph (f) of subsection  
8 (2), and subsections (3), (5), and (6) of section 461.013,  
9 Florida Statutes, are amended to read:

10 461.013 Grounds for disciplinary action; action by the  
11 board; investigations by department.--

12 (1) The following acts shall constitute grounds for  
13 which the disciplinary actions specified in subsection (2) may  
14 be taken:

15 (h) Failing to perform any statutory or legal  
16 obligation placed upon a licensed podiatric physician  
17 ~~podiatrist~~.

18 (i) Making or filing a report which the licensee knows  
19 to be false, intentionally or negligently failing to file a  
20 report or record required by state or federal law, willfully  
21 impeding or obstructing such filing or inducing another person  
22 to do so. Such report or records shall include only those  
23 which are signed in the capacity of a licensed podiatric  
24 physician ~~podiatrist~~.

25 (o) Prescribing, dispensing, administering, mixing, or  
26 otherwise preparing a legend drug, including all controlled  
27 substances, other than in the course of the podiatric  
28 physician's ~~podiatrist's~~ professional practice. For the  
29 purposes of this paragraph, it shall be legally presumed that  
30 prescribing, dispensing, administering, mixing, or otherwise  
31 preparing legend drugs, including all controlled substances,

1 inappropriately or in excessive or inappropriate quantities is  
2 not in the best interest of the patient and is not in the  
3 course of the podiatric physician's ~~podiatrist's~~ professional  
4 practice, without regard to her or his intent.

5 (p) Prescribing, dispensing, or administering any  
6 medicinal drug appearing on any schedule set forth in chapter  
7 893 by the podiatric physician ~~podiatrist~~ to herself or  
8 himself except those prescribed, dispensed, or administered to  
9 the podiatric physician ~~podiatrist~~ by another practitioner  
10 authorized to prescribe, dispense, or administer them.

11 (r) Being unable to practice podiatric medicine with  
12 reasonable skill and safety to patients by reason of illness  
13 or use of alcohol, drugs, narcotics, chemicals, or any other  
14 type of material or as a result of any mental or physical  
15 condition. In enforcing this paragraph the department shall,  
16 upon probable cause, have authority to compel a podiatric  
17 physician ~~podiatrist~~ to submit to a mental or physical  
18 examination by physicians designated by the department.

19 Failure of a podiatric physician ~~podiatrist~~ to submit to such  
20 examination when directed shall constitute an admission of the  
21 allegations against her or him, unless the failure was due to  
22 circumstances beyond her or his control, consequent upon which  
23 a default and final order may be entered without the taking of  
24 testimony or presentation of evidence. A podiatric physician  
25 ~~podiatrist~~ affected under this paragraph shall at reasonable  
26 intervals be afforded an opportunity to demonstrate that she  
27 or he can resume the competent practice of podiatric medicine  
28 with reasonable skill and safety to patients.

29 (s) Gross or repeated malpractice or the failure to  
30 practice podiatric medicine at a level of care, skill, and  
31 treatment which is recognized by a reasonably prudent

1 podiatric physician ~~podiatrist~~ as being acceptable under  
2 similar conditions and circumstances. The board shall give  
3 great weight to the standards for malpractice in s. 766.102 in  
4 interpreting this section. As used in this paragraph,  
5 "repeated malpractice" includes, but is not limited to, three  
6 or more claims for medical malpractice within the previous  
7 5-year period resulting in indemnities being paid in excess of  
8 \$10,000 each to the claimant in a judgment or settlement and  
9 which incidents involved negligent conduct by the podiatric  
10 physicians ~~podiatrists~~. As used in this paragraph, "gross  
11 malpractice" or "the failure to practice podiatric medicine  
12 podiatry with the level of care, skill, and treatment which is  
13 recognized by a reasonably prudent similar podiatric physician  
14 ~~podiatrist~~ as being acceptable under similar conditions and  
15 circumstances" shall not be construed so as to require more  
16 than one instance, event, or act.

17 (w) Violating any provision of this chapter or part II  
18 of chapter 455, any rule of the board or department, or a  
19 lawful order of the board or department previously entered in  
20 a disciplinary hearing or failing to comply with a lawfully  
21 issued subpoena of the board or department.

22 (aa) Failing to report to the department any licensee  
23 under chapter 458 or chapter 459 who the podiatric physician  
24 ~~podiatrist~~ knows has violated the grounds for disciplinary  
25 action set out in the law under which that person is licensed  
26 and who provides health care services in a facility licensed  
27 under chapter 395, or a health maintenance organization  
28 certificated under part I of chapter 641, in which the  
29 podiatric physician ~~podiatrist~~ also provides services.

30  
31

1           (2) When the board finds any person guilty of any of  
2 the grounds set forth in subsection (1), it may enter an order  
3 imposing one or more of the following penalties:

4           (f) Placing the podiatric physician ~~podiatrist~~ on  
5 probation for a period of time and subject to such conditions  
6 as the board may specify, including requiring the podiatric  
7 physician ~~podiatrist~~ to submit to treatment, to attend  
8 continuing education courses, to submit to reexamination, and  
9 to work under the supervision of another podiatric physician  
10 ~~podiatrist~~.

11           (3) The department shall not reinstate the license of  
12 a podiatric physician ~~podiatrist~~, or cause a license to be  
13 issued to a person the board has deemed unqualified, until  
14 such time as the board is satisfied that she or he has  
15 complied with all the terms and conditions set forth in the  
16 final order and that such person is capable of safely engaging  
17 in the practice of podiatric medicine.

18           (5)(a) Upon the department's receipt from an insurer  
19 or self-insurer of a report of a closed claim against a  
20 podiatric physician ~~podiatrist~~ pursuant to s. 627.912, or upon  
21 the receipt from a claimant of a presuit notice against a  
22 podiatric physician ~~podiatrist~~ pursuant to s. 766.106, the  
23 department shall review each report and determine whether it  
24 potentially involved conduct by a licensee that is subject to  
25 disciplinary action, in which case the provisions of s.  
26 455.621 ~~455.225~~ shall apply. However, if it is reported that a  
27 podiatric physician ~~podiatrist~~ has had three or more claims  
28 with indemnities exceeding \$25,000 each within the previous  
29 5-year period, the department shall investigate the  
30 occurrences upon which the claims were based and determine if  
31



1 action by the department against the podiatric physician  
2 ~~podiatrist~~ is warranted.

3 (b) Upon the department's receipt from the Department  
4 of Health and Rehabilitative Services pursuant to s. 395.0197  
5 of the name of the podiatric physician ~~podiatrist~~ whose  
6 conduct may constitute grounds for disciplinary action by the  
7 department, the department shall investigate the occurrences  
8 upon which the report was based and determine if action by the  
9 department against the podiatric physician ~~podiatrist~~ is  
10 warranted.

11 (6) When an investigation of a podiatric physician  
12 ~~podiatrist~~ is undertaken, the department shall promptly  
13 furnish to the podiatric physician ~~podiatrist~~ or her or his  
14 attorney a copy of the complaint or document which resulted in  
15 the initiation of the investigation. The podiatric physician  
16 ~~podiatrist~~ may submit a written response to the information  
17 contained in such complaint or document within 45 days after  
18 service to the podiatric physician ~~podiatrist~~ of the complaint  
19 or document. The podiatric physician's ~~podiatrist's~~ written  
20 response shall be considered by the probable cause panel.

21 Section 222. Section 461.0134, Florida Statutes, is  
22 amended to read:

23 461.0134 Prescription or administration of dimethyl  
24 sulfoxide (DMSO); written release and information  
25 requirements.--

26 (1) A podiatric physician ~~No podiatrist~~ licensed under  
27 this chapter may not ~~shall~~ be subject to disciplinary action  
28 by the board for prescribing or administering dimethyl  
29 sulfoxide (DMSO) to a patient under the podiatric physician's  
30 ~~podiatrist's~~ care who has requested the substance as long as  
31

1 the podiatric physician ~~podiatrist~~ complies with the  
2 requirements of this section.

3 (2) The patient, after being fully informed as to  
4 alternative methods of treatment and their potential for cure  
5 and upon request for the administration of dimethyl sulfoxide  
6 (DMSO) by the patient's podiatric physician ~~podiatrist~~, shall  
7 sign a written release, releasing the podiatric physician  
8 ~~podiatrist~~ and, when applicable, the hospital or health  
9 facility from any liability therefor.

10 (3) The podiatric physician ~~podiatrist~~ shall inform  
11 the patient in writing if dimethyl sulfoxide (DMSO) has not  
12 been approved as a treatment or cure by the Food and Drug  
13 Administration of the United States Department of Health and  
14 Human Services for the disorder for which it is being  
15 prescribed.

16 Section 223. Subsection (2) of section 461.014,  
17 Florida Statutes, is amended to read:

18 461.014 Residency.--The board shall encourage and  
19 develop podiatric residency programs in hospitals in this  
20 state and shall establish such programs by the promulgation of  
21 rules, subject to the following conditions:

22 (2) A residency program may be established only at a  
23 hospital where a duly licensed podiatric physician ~~podiatrist~~  
24 is on the hospital staff or is otherwise in a supervisory  
25 position.

26 Section 224. Subsection (2) of section 461.015,  
27 Florida Statutes, is amended to read:

28 461.015 Saving clauses.--

29 (2) Each podiatric physician ~~podiatrist~~ who is duly  
30 licensed on June 30, 1979, shall be entitled to hold such  
31

1 license. Henceforth, such license shall be renewed in  
2 accordance with the provisions of this act.

3 Section 225. Section 461.018, Florida Statutes, is  
4 amended to read:

5 461.018 Limited scope of practice; area of  
6 need.--Those persons holding valid certificates on October 1,  
7 1991, who were certified pursuant to chapters 88-205 and  
8 88-392, Laws of Florida, and who have been practicing under a  
9 board-approved protocol for at least 2 years are eligible to  
10 receive a podiatric medicine ~~podiatry~~ license to practice  
11 without supervision under their present limited scope of  
12 practice of the nonsurgical treatment of corns, calluses, and  
13 ingrown toenails in a specially designated area of need as  
14 provided by rule of the board.

15 Section 226. Subsection (1) of section 462.01, Florida  
16 Statutes, is amended to read:

17 462.01 Definitions.--As used in this chapter:

18 (1) "Natureopathy" and "Naturopathy" shall be  
19 construed as synonymous terms and mean the use and practice of  
20 psychological, mechanical, and material health sciences to aid  
21 in purifying, cleansing, and normalizing human tissues for the  
22 preservation or restoration of health, according to the  
23 fundamental principles of anatomy, physiology, and applied  
24 psychology, as may be required. Naturopathic practice  
25 employs, among other agencies, phytotherapy, dietetics,  
26 psychotherapy, suggestotherapy, hydrotherapy, zone therapy,  
27 biochemistry, external applications, electrotherapy,  
28 mechanotherapy, mechanical and electrical appliances, hygiene,  
29 first aid, sanitation, and heliotherapy; provided, however,  
30 that nothing in this chapter shall be held or construed to  
31 authorize any naturopathic physician licensed hereunder to

1 practice materia medica or surgery or chiropractic medicine,  
2 nor shall the provisions of this law in any manner apply to or  
3 affect the practice of osteopathic medicine, chiropractic  
4 medicine, Christian Science, or any other treatment authorized  
5 and provided for by law for the cure or prevention of disease  
6 and ailments.

7 Section 227. Paragraph (b) of subsection (3) of  
8 section 464.003, Florida Statutes, is amended to read:

9 464.003 Definitions.--As used in this chapter:  
10 (3)

11 (b) "Practice of practical nursing" means the  
12 performance of selected acts, including the administration of  
13 treatments and medications, in the care of the ill, injured,  
14 or infirm and the promotion of wellness, maintenance of  
15 health, and prevention of illness of others under the  
16 direction of a registered nurse, a licensed physician, a  
17 licensed osteopathic physician, a licensed podiatric physician  
18 ~~podiatrist~~, or a licensed dentist.

19  
20 The professional nurse and the practical nurse shall be  
21 responsible and accountable for making decisions that are  
22 based upon the individual's educational preparation and  
23 experience in nursing.

24 Section 228. Subsections (2), (6), (8), and (10) of  
25 section 468.301, Florida Statutes, are amended to read:

26 468.301 Definitions.--As used in this part, the term:

27 (2) "Basic X-ray machine operator-podiatric medicine  
28 ~~operator-podiatry~~" means a person who is employed by and under  
29 the direct supervision of a licensed podiatric physician  
30 ~~podiatrist~~ to perform only those radiographic functions that  
31 are within the scope of practice of a podiatric physician

1 ~~podiatrist~~ licensed pursuant to chapter 461, specifically  
2 excluding nuclear medicine and radiation therapy procedures.

3 (6) "Direct supervision" means supervision and control  
4 by a licensed practitioner who assumes legal liability for the  
5 services rendered by the basic X-ray machine operator or basic  
6 X-ray machine operator-podiatric medicine operator-podiatry,  
7 which supervision requires the physical presence of the  
8 licensed practitioner for consultation and direction of the  
9 actions of the basic X-ray machine operator or basic X-ray  
10 machine operator-podiatric medicine operator-podiatry.

11 (8) "General radiographer" means a person who is  
12 employed and certificated in radiography, other than a basic  
13 X-ray machine operator or basic X-ray machine  
14 operator-podiatric medicine operator-podiatry.

15 (10) "Licensed practitioner" means a person who is  
16 licensed or otherwise authorized by law to practice medicine,  
17 podiatric medicine podiatry, chiropody, osteopathic medicine,  
18 naturopathy, or chiropractic medicine in this state.

19 Section 229. Paragraph (b) of subsection (2),  
20 paragraphs (b) and (c) of subsection (3), and paragraph (a) of  
21 subsection (6) of section 468.302, Florida Statutes, are  
22 amended to read:

23 468.302 Use of radiation; identification of certified  
24 persons; limitations; exceptions.--

25 (2)

26 (b) A person holding a certificate as a basic X-ray  
27 machine operator-podiatric medicine operator-podiatry may use  
28 the title "Basic X-ray Machine Operator-Podiatric Medicine  
29 Operator-Podiatry."

30  
31

1 No other person is entitled to so use a title or letters  
2 contained in this subsection or to hold himself or herself out  
3 in any way, whether orally or in writing, expressly or by  
4 implication, as being so certified.

5 (3)

6 (b) A basic X-ray machine operator or basic X-ray  
7 machine operator-podiatric medicine ~~operator-podiatry~~ may not  
8 practice radiologic technology in walk-in emergency centers,  
9 freestanding breast clinics, freestanding cancer clinics,  
10 state mental hospitals, state correctional institutions, or in  
11 any facility regulated under chapter 390, chapter 392, chapter  
12 393, chapter 394, or chapter 641. For a facility licensed  
13 under chapter 395, a basic X-ray machine operator may only  
14 perform the procedures specified in paragraph (a) in a  
15 hospital with a capacity of 150 beds or less. If such a  
16 hospital has or acquires radiographic or fluoroscopic  
17 equipment other than general diagnostic radiographic and  
18 general fluoroscopic equipment, that hospital shall keep a  
19 record documenting which personnel performed each radiographic  
20 or fluoroscopic procedure. For purposes of this paragraph, a  
21 walk-in emergency center shall not include a  
22 physician-operated walk-in clinic which operates with or  
23 without appointments and with extended hours and which does  
24 not hold itself out to the public as an emergency center.

25 (c) A person holding a certificate as a basic X-ray  
26 machine operator-podiatric medicine ~~operator-podiatry~~ may  
27 perform only podiatric radiographic procedures under the  
28 direct supervision and control of a licensed podiatric  
29 physician ~~podiatrist~~.

30 (6) Requirement for certification does not apply to:  
31

1 (a) A hospital resident who is not a licensed  
2 practitioner in this state or a student enrolled in and  
3 attending a school or college of medicine, osteopathic  
4 medicine, chiropody, podiatric medicine ~~podiatry~~, or  
5 chiropractic medicine or a radiologic technology educational  
6 program and who applies radiation to a human being while under  
7 the direct supervision of a licensed practitioner.

8 Section 230. Paragraph (b) of subsection (4) of  
9 section 468.304, Florida Statutes, is amended to read:

10 468.304 Certification examination; admission.--The  
11 department shall admit to examination for certification any  
12 applicant who pays to the department a nonrefundable fee not  
13 to exceed \$100 and submits satisfactory evidence, verified by  
14 oath or affirmation, that she or he:

15 (4)

16 (b)1. With respect to an applicant for a basic X-ray  
17 machine operator's certificate, has completed a course of  
18 study approved by the department with appropriate study  
19 material provided the applicant by the department;

20 2. With respect to an applicant for a basic X-ray  
21 machine operator-podiatric medicine ~~operator-podiatry~~  
22 certificate, has completed a course of study approved by the  
23 department, provided that such course of study shall be  
24 limited to that information necessary to perform radiographic  
25 procedures within the scope of practice of a podiatric  
26 physician ~~podiatrist~~ licensed pursuant to chapter 461;

27 3. With respect only to an applicant for a general  
28 radiographer's certificate who is a basic X-ray machine  
29 operator certificateholder, has completed an educational  
30 program or a 2-year training program that takes into account  
31 the types of procedures and level of supervision usually and

1 customarily practiced in a hospital, which educational or  
2 training program complies with the rules of the department; or

3 4. With respect only to an applicant for a nuclear  
4 medicine technologist's certificate who is a general  
5 radiographer certificateholder, has completed an educational  
6 program or a 2-year training program that takes into account  
7 the types of procedures and level of supervision usually and  
8 customarily practiced in a hospital, which educational or  
9 training program complies with the rules of the department.

10

11 No application for a limited computed tomography certificate  
12 shall be accepted. All persons holding valid computed  
13 tomography certificates as of October 1, 1984, are subject to  
14 the provisions of s. 468.309.

15 Section 231. Paragraph (a) of subsection (2) of  
16 section 468.307, Florida Statutes, is amended to read:

17 468.307 Certificate; issuance; possession; display.--

18 (2)(a) The department may, at its discretion, issue a  
19 temporary certificate to:

20 1. An applicant who has completed an educational  
21 program and is awaiting examination for a certificate  
22 specified in s. 468.302(2)(b), (c), (e), or (f), if the  
23 applicant has met all other requirements established pursuant  
24 to s. 468.304.

25 2. A basic X-ray machine operator, if such person is  
26 under the direct supervision of a licensed practitioner and  
27 the licensed practitioner has not requested issuance of a  
28 temporary certificate within the previous 18 months, upon  
29 application by a licensed practitioner who is practicing in an  
30 office of five or fewer licensed practitioners.

31



1           3. A basic X-ray machine operator-podiatric medicine  
2 ~~operator-podiatry~~, if such person is under the direct  
3 supervision of a licensed podiatric physician ~~podiatrist~~ and  
4 the licensed podiatric physician ~~podiatrist~~ has not requested  
5 issuance of a temporary certificate within the previous 18  
6 months, upon application by a licensed podiatric physician  
7 ~~podiatrist~~ who is practicing in an office of five or fewer  
8 licensed podiatric physicians ~~podiatrists~~.

9           Section 232. Paragraphs (j) and (k) of subsection (2)  
10 of section 468.314, Florida Statutes, are amended to read:

11           468.314 Advisory Council on Radiation Protection;  
12 appointment; terms; powers; duties.--

13           (2) The council shall be comprised of:

14           (j) A ~~board-certified~~ chiropractic radiologist.

15           (k) A board-certified podiatric physician ~~podiatrist~~.

16           Section 233. Subsection (1) of section 476.044,  
17 Florida Statutes, is amended to read:

18           476.044 Exemptions.--This chapter does not apply to  
19 the following persons when practicing pursuant to their  
20 professional responsibilities and duties:

21           (1) Persons authorized under the laws of this state to  
22 practice medicine, surgery, osteopathic medicine, chiropractic  
23 medicine, naturopathy, or podiatric medicine ~~podiatry~~;

24           Section 234. Paragraph (a) of subsection (1) of  
25 section 477.0135, Florida Statutes, is amended to read:

26           477.0135 Exemptions.--

27           (1) This chapter does not apply to the following  
28 persons when practicing pursuant to their professional or  
29 occupational responsibilities and duties:

30           (a) Persons authorized under the laws of this state to  
31 practice medicine, surgery, osteopathic medicine, chiropractic

1 medicine, massage, naturopathy, or podiatric medicine  
2 ~~podiatry~~.

3 Section 235. Paragraph (i) of subsection (3),  
4 paragraph (a) of subsection (4), and paragraph (j) of  
5 subsection (6) of section 483.901, Florida Statutes, are  
6 amended to read:

7 483.901 Medical physicists; definitions; licensure.--

8 (3) DEFINITIONS.--As used in this section, the term:

9 (i) "Physician" means a doctor of medicine,  
10 osteopathic medicine, podiatric medicine ~~podiatry~~, dentistry,  
11 or chiropractic medicine who is licensed in this state and who  
12 prescribes a radiological procedure.

13 (4) COUNCIL.--The Advisory Council of Medical  
14 Physicists is created in the Department of Health to advise  
15 the department in regulating the practice of medical physics  
16 in this state.

17 (a) The council shall be composed of nine members  
18 appointed by the secretary of the department as follows:

19 1. A licensed medical physicist who specializes in  
20 diagnostic radiological physics.

21 2. A licensed medical physicist who specializes in  
22 therapeutic radiological physics.

23 3. A licensed medical physicist who specializes in  
24 medical nuclear radiological physics.

25 4. A physician who is board certified by the American  
26 Board of Radiology or its equivalent.

27 5. A physician who is board certified by the American  
28 Osteopathic Board of Radiology or its equivalent.

29 6. A chiropractic physician who practices radiology ~~is~~  
30 ~~board certified by the American Chiropractic Radiology Board~~  
31 ~~or its equivalent~~.

1           7. Three consumer members who are not, and have never  
2 been, licensed as a medical physicist or licensed in any  
3 closely related profession.

4           (6) LICENSE REQUIRED.--An individual may not engage in  
5 the practice of medical physics, including the specialties of  
6 diagnostic radiological physics, therapeutic radiological  
7 physics, medical nuclear radiological physics, or medical  
8 health physics, without a license issued by the department for  
9 the appropriate specialty.

10           (j) The department may issue a temporary license to an  
11 applicant pending completion of the application process for  
12 board certification.

13           Section 236. Subsection (11) of section 486.021,  
14 Florida Statutes, is amended to read:

15           486.021 Definitions.--In this chapter, unless the  
16 context otherwise requires, the term:

17           (11) "Practice of physical therapy" means the  
18 performance of physical therapy assessments and the treatment  
19 of any disability, injury, disease, or other health condition  
20 of human beings, or the prevention of such disability, injury,  
21 disease, or other condition of health, and rehabilitation as  
22 related thereto by the use of the physical, chemical, and  
23 other properties of air; electricity; exercise; massage; the  
24 performance of acupuncture only upon compliance with the  
25 criteria set forth by the Board of Medicine, when no  
26 penetration of the skin occurs; the use of radiant energy,  
27 including ultraviolet, visible, and infrared rays; ultrasound;  
28 water; the use of apparatus and equipment in the application  
29 of the foregoing or related thereto; the performance of tests  
30 of neuromuscular functions as an aid to the diagnosis or  
31 treatment of any human condition; or the performance of

1 electromyography as an aid to the diagnosis of any human  
2 condition only upon compliance with the criteria set forth by  
3 the Board of Medicine. A physical therapist may implement a  
4 plan of treatment for a patient. The physical therapist shall  
5 refer the patient to or consult with a health care  
6 practitioner licensed under chapter 458, chapter 459, chapter  
7 460, chapter 461, or chapter 466, if the patient's condition  
8 is found to be outside the scope of physical therapy. If  
9 physical therapy treatment for a patient is required beyond 21  
10 days for a condition not previously assessed by a practitioner  
11 of record, the physical therapist shall obtain a practitioner  
12 of record who will review and sign the plan. A health care  
13 practitioner licensed under chapter 458, chapter 459, chapter  
14 460, chapter 461, or chapter 466 and engaged in active  
15 practice is eligible to serve as a practitioner of record. The  
16 use of roentgen rays and radium for diagnostic and therapeutic  
17 purposes and the use of electricity for surgical purposes,  
18 including cauterization, are not authorized under the term  
19 "physical therapy" as used in this chapter. The practice of  
20 physical therapy as defined in this chapter does not authorize  
21 a physical therapy practitioner to practice chiropractic  
22 medicine as defined in chapter 460, including specific spinal  
23 manipulation. For the performance of specific chiropractic  
24 spinal manipulation, a physical therapist shall refer the  
25 patient to a health care practitioner licensed under chapter  
26 460. Nothing in this subsection authorizes a physical  
27 therapist to implement a plan of treatment for a patient  
28 currently being treated in a facility licensed pursuant to  
29 chapter 395.

30 Section 237. Subsection (1) of section 486.161,  
31 Florida Statutes, is amended to read:

1           486.161 Exemptions.--

2           (1) No provision of this chapter shall be construed to  
3 prohibit any person licensed in this state from using any  
4 physical agent as a part of, or incidental to, the lawful  
5 practice of her or his profession under the statutes  
6 applicable to the profession of chiropractic physician  
7 ~~chiropractor~~, podiatric physician ~~podiatrist~~, doctor of  
8 medicine, massage therapist, nurse, osteopathic physician or  
9 surgeon, occupational therapist, or naturopath.

10           Section 238. Subsection (1) of section 621.03, Florida  
11 Statutes, is amended to read:

12           621.03 Definitions.--As used in this act the following  
13 words shall have the meaning indicated:

14           (1) The term "professional service" means any type of  
15 personal service to the public which requires as a condition  
16 precedent to the rendering of such service the obtaining of a  
17 license or other legal authorization. By way of example and  
18 without limiting the generality thereof, the personal services  
19 which come within the provisions of this act are the personal  
20 services rendered by certified public accountants, public  
21 accountants, chiropractic physicians ~~chiropractors~~, dentists,  
22 osteopathic physicians, physicians and surgeons, doctors of  
23 medicine, doctors of dentistry, podiatric physicians  
24 ~~podiatrists~~, chiropodists, architects, veterinarians,  
25 attorneys at law, and life insurance agents.

26           Section 239. Paragraph (h) of subsection (4) of  
27 section 627.351, Florida Statutes, is amended to read:

28           627.351 Insurance risk apportionment plans.--

29           (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.--

30           (h) As used in this subsection:

31

1           1. "Health care provider" means hospitals licensed  
2 under chapter 395; physicians licensed under chapter 458;  
3 osteopathic physicians licensed under chapter 459; podiatric  
4 physicians ~~podiatrists~~ licensed under chapter 461; dentists  
5 licensed under chapter 466; chiropractic physicians  
6 ~~chiropractors~~ licensed under chapter 460; naturopaths licensed  
7 under chapter 462; nurses licensed under chapter 464; midwives  
8 licensed under chapter 467; clinical laboratories registered  
9 under chapter 483; physician assistants certified under  
10 chapter 458; physical therapists and physical therapist  
11 assistants licensed under chapter 486; health maintenance  
12 organizations certificated under part I of chapter 641;  
13 ambulatory surgical centers licensed under chapter 395; other  
14 medical facilities as defined in subparagraph 2.; blood banks,  
15 plasma centers, industrial clinics, and renal dialysis  
16 facilities; or professional associations, partnerships,  
17 corporations, joint ventures, or other associations for  
18 professional activity by health care providers.

19           2. "Other medical facility" means a facility the  
20 primary purpose of which is to provide human medical  
21 diagnostic services or a facility providing nonsurgical human  
22 medical treatment, to which facility the patient is admitted  
23 and from which facility the patient is discharged within the  
24 same working day, and which facility is not part of a  
25 hospital. However, a facility existing for the primary  
26 purpose of performing terminations of pregnancy or an office  
27 maintained by a physician or dentist for the practice of  
28 medicine shall not be construed to be an "other medical  
29 facility."

30           3. "Health care facility" means any hospital licensed  
31 under chapter 395, health maintenance organization

1 certificated under part I of chapter 641, ambulatory surgical  
2 center licensed under chapter 395, or other medical facility  
3 as defined in subparagraph 2.

4 Section 240. Paragraph (b) of subsection (1) of  
5 section 627.357, Florida Statutes, is amended to read:

6 627.357 Medical malpractice self-insurance.--

7 (1) DEFINITIONS.--As used in this section, the term:

8 (b) "Health care provider" means any:

9 1. Hospital licensed under chapter 395.

10 2. Physician licensed, or physician assistant  
11 certified, under chapter 458.

12 3. Osteopathic physician licensed under chapter 459.

13 4. Podiatric physician ~~Podiatrist~~ licensed under  
14 chapter 461.

15 5. Health maintenance organization certificated under  
16 part I of chapter 641.

17 6. Ambulatory surgical center licensed under chapter  
18 395.

19 7. Chiropractic physician ~~Chiropractor~~ licensed under  
20 chapter 460.

21 8. Psychologist licensed under chapter 490.

22 9. Optometrist licensed under chapter 463.

23 10. Dentist licensed under chapter 466.

24 11. Pharmacist licensed under chapter 465.

25 12. Registered nurse, licensed practical nurse, or  
26 advanced registered nurse practitioner licensed or registered  
27 under chapter 464.

28 13. Other medical facility.

29 14. Professional association, partnership,  
30 corporation, joint venture, or other association established  
31

1 by the individuals set forth in subparagraphs 2., 3., 4., 7.,  
2 8., 9., 10., 11., and 12. for professional activity.

3 Section 241. Subsection (3) of section 627.419,  
4 Florida Statutes, is amended to read:

5 627.419 Construction of policies.--

6 (3) Notwithstanding any other provision of law, when  
7 any health insurance policy, health care services plan, or  
8 other contract provides for the payment for procedures  
9 specified in the policy or contract which are within the scope  
10 of an optometrist's or podiatric physician's ~~podiatrist's~~  
11 professional license, such policy shall be construed to  
12 include payment to an optometrist or podiatric physician  
13 ~~podiatrist~~ who performs such procedures. In the case of  
14 podiatric medicine ~~podiatry~~ services, such payments shall be  
15 made in accordance with the coverage now provided for medical  
16 and surgical benefits.

17 Section 242. Subsection (10) of section 627.6482,  
18 Florida Statutes, is amended to read:

19 627.6482 Definitions.--As used in ss.  
20 627.648-627.6498, the term:

21 (10) "Physician" means a physician licensed under  
22 chapter 458; an osteopathic physician licensed under chapter  
23 459; a chiropractic physician ~~chiropractor~~ licensed under  
24 chapter 460; a podiatric physician ~~podiatrist~~ licensed under  
25 chapter 461; or, for purposes of oral surgery only, a dental  
26 surgeon licensed under chapter 466.

27 Section 243. Subsection (1) of section 641.316,  
28 Florida Statutes, is amended to read:

29 641.316 Fiscal intermediary services.--

30 (1) It is the intent of the Legislature, through the  
31 adoption of this section, to ensure the financial soundness of



1 fiscal intermediary services organizations established to  
2 develop, manage, and administer the business affairs of health  
3 care professional providers such as medical doctors, doctors  
4 of osteopathy, doctors of chiropractic medicine, doctors of  
5 podiatric medicine, doctors of dentistry, or other health  
6 professionals regulated by the Department of Health.

7 Section 244. Subsection (3) of section 641.425,  
8 Florida Statutes, is amended to read:

9 641.425 Construction of contracts.--

10 (3) Notwithstanding any other provision of law, when  
11 any contract provides for the payment for procedures which are  
12 specified in the contract and are within the scope of an  
13 optometrist's or podiatric physician's ~~podiatrist's~~  
14 professional license, such contract shall be construed to  
15 include payment to an optometrist or podiatric physician  
16 ~~podiatrist~~ who performs such procedures. In the case of  
17 podiatric medicine ~~podiatry~~ services, payments shall be made  
18 in accordance with the coverage now provided for medical and  
19 surgical benefits.

20 Section 245. Section 725.01, Florida Statutes, is  
21 amended to read:

22 725.01 Promise to pay another's debt, etc.--No action  
23 shall be brought whereby to charge any executor or  
24 administrator upon any special promise to answer or pay any  
25 debt or damages out of her or his own estate, or whereby to  
26 charge the defendant upon any special promise to answer for  
27 the debt, default or miscarriage of another person or to  
28 charge any person upon any agreement made upon consideration  
29 of marriage, or upon any contract for the sale of lands,  
30 tenements or hereditaments, or of any uncertain interest in or  
31 concerning them, or for any lease thereof for a period longer

1 than 1 year, or upon any agreement that is not to be performed  
2 within the space of 1 year from the making thereof, or whereby  
3 to charge any health care provider upon any guarantee,  
4 warranty, or assurance as to the results of any medical,  
5 surgical, or diagnostic procedure performed by any physician  
6 licensed under chapter 458, osteopathic physician licensed  
7 under chapter 459, chiropractic physician ~~chiropractor~~  
8 licensed under chapter 460, podiatric physician ~~podiatrist~~  
9 licensed under chapter 461, or dentist licensed under chapter  
10 466, unless the agreement or promise upon which such action  
11 shall be brought, or some note or memorandum thereof shall be  
12 in writing and signed by the party to be charged therewith or  
13 by some other person by her or him thereunto lawfully  
14 authorized.

15 Section 246. Paragraph (b) of subsection (1) of  
16 section 766.101, Florida Statutes, is amended to read:

17 766.101 Medical review committee, immunity from  
18 liability.--

19 (1) As used in this section:

20 (b) The term "health care providers" means physicians  
21 licensed under chapter 458, osteopathic physicians licensed  
22 under chapter 459, podiatric physicians ~~podiatrists~~ licensed  
23 under chapter 461, optometrists licensed under chapter 463,  
24 dentists licensed under chapter 466, chiropractic physicians  
25 ~~chiropractors~~ licensed under chapter 460, pharmacists licensed  
26 under chapter 465, or hospitals or ambulatory surgical centers  
27 licensed under chapter 395.

28 Section 247. Paragraph (a) of subsection (6) of  
29 section 766.102, Florida Statutes, is amended to read:

30 766.102 Medical negligence; standards of recovery.--  
31

1           (6)(a) In any action for damages involving a claim of  
2 negligence against a physician licensed under chapter 458,  
3 osteopathic physician licensed under chapter 459, podiatric  
4 physician ~~podiatrist~~ licensed under chapter 461, or  
5 chiropractic physician ~~chiropractor~~ licensed under chapter 460  
6 providing emergency medical services in a hospital emergency  
7 department, the court shall admit expert medical testimony  
8 only from physicians, osteopathic physicians, podiatric  
9 physicians ~~podiatrists~~, and chiropractic physicians  
10 ~~chiropractors~~ who have had substantial professional experience  
11 within the preceding 5 years while assigned to provide  
12 emergency medical services in a hospital emergency department.

13           Section 248. Subsection (3) of section 766.103,  
14 Florida Statutes, is amended to read:

15           766.103 Florida Medical Consent Law.--

16           (3) No recovery shall be allowed in any court in this  
17 state against any physician licensed under chapter 458,  
18 osteopathic physician licensed under chapter 459, chiropractic  
19 physician ~~chiropractor~~ licensed under chapter 460, podiatric  
20 physician ~~podiatrist~~ licensed under chapter 461, or dentist  
21 licensed under chapter 466 in an action brought for treating,  
22 examining, or operating on a patient without his or her  
23 informed consent when:

24           (a)1. The action of the physician, osteopathic  
25 physician, chiropractic physician ~~chiropractor~~, podiatric  
26 physician ~~podiatrist~~, or dentist in obtaining the consent of  
27 the patient or another person authorized to give consent for  
28 the patient was in accordance with an accepted standard of  
29 medical practice among members of the medical profession with  
30 similar training and experience in the same or similar medical  
31 community; and

1           2. A reasonable individual, from the information  
2 provided by the physician, osteopathic physician, chiropractic  
3 physician ~~chiropractor~~, podiatric physician ~~podiatrist~~, or  
4 dentist, under the circumstances, would have a general  
5 understanding of the procedure, the medically acceptable  
6 alternative procedures or treatments, and the substantial  
7 risks and hazards inherent in the proposed treatment or  
8 procedures, which are recognized among other physicians,  
9 osteopathic physicians, chiropractic physicians ~~chiropractors~~,  
10 podiatric physicians ~~podiatrists~~, or dentists in the same or  
11 similar community who perform similar treatments or  
12 procedures; or

13           (b) The patient would reasonably, under all the  
14 surrounding circumstances, have undergone such treatment or  
15 procedure had he or she been advised by the physician,  
16 osteopathic physician, chiropractic physician ~~chiropractor~~,  
17 podiatric physician ~~podiatrist~~, or dentist in accordance with  
18 the provisions of paragraph (a).

19           Section 249. Paragraphs (b) and (i) of subsection (1),  
20 paragraph (e) of subsection (2), and paragraph (b) of  
21 subsection (3) of section 766.105, Florida Statutes, are  
22 amended to read:

23           766.105 Florida Patient's Compensation Fund.--

24           (1) DEFINITIONS.--The following definitions apply in  
25 the interpretation and enforcement of this section:

26           (b) The term "health care provider" means any:

27           1. Hospital licensed under chapter 395.

28           2. Physician licensed, or physician assistant  
29 certified, under chapter 458.

30           3. Osteopathic physician licensed under chapter 459.

31

- 1           4. Podiatric physician ~~Podiatrist~~ licensed under  
2 chapter 461.
- 3           5. Health maintenance organization certificated under  
4 part I of chapter 641.
- 5           6. Ambulatory surgical center licensed under chapter  
6 395.
- 7           7. "Other medical facility" as defined in paragraph  
8 (c).
- 9           8. Professional association, partnership, corporation,  
10 joint venture, or other association by the individuals set  
11 forth in subparagraphs 2., 3., and 4. for professional  
12 activity.
- 13           (i) The term "house physician" means any physician,  
14 osteopathic physician, podiatric physician ~~podiatrist~~, or  
15 dentist except: a physician, osteopathic physician, podiatric  
16 physician ~~podiatrist~~, or dentist with staff privileges at a  
17 hospital; a physician, osteopathic physician, podiatric  
18 physician ~~podiatrist~~, or dentist providing emergency room  
19 services; an anesthesiologist, pathologist, or radiologist; or  
20 a physician, osteopathic physician, podiatric physician  
21 ~~podiatrist~~, or dentist who performs a service for a fee.
- 22           (2) COVERAGE.--
- 23           (e) The coverage afforded by the fund for a  
24 participating hospital or ambulatory surgical center shall  
25 apply to the officers, trustees, volunteer workers, trainees,  
26 committee members (including physicians, osteopathic  
27 physicians, podiatric physicians ~~podiatrists~~, and dentists),  
28 and employees of the hospital or ambulatory surgical center,  
29 other than employed physicians licensed under chapter 458,  
30 physician assistants licensed under chapter 458, osteopathic  
31 physicians licensed under chapter 459, dentists licensed under

1 chapter 466, and podiatric physicians ~~podiatrists~~ licensed  
2 under chapter 461. However, the coverage afforded by the fund  
3 for a participating hospital shall apply to house physicians,  
4 interns, employed physician residents in a resident training  
5 program, or physicians performing purely administrative duties  
6 for the participating hospitals other than the treatment of  
7 patients. This coverage shall apply to the hospital or  
8 ambulatory surgical center and those included in this  
9 subsection as one health care provider.

10 (3) THE FUND.--

11 (b) Fund administration and operation.--

12 1. The fund shall operate subject to the supervision  
13 and approval of a board of governors consisting of a  
14 representative of the insurance industry appointed by the  
15 Insurance Commissioner, an attorney appointed by The Florida  
16 Bar, a representative of physicians appointed by the Florida  
17 Medical Association, a representative of physicians' insurance  
18 appointed by the Insurance Commissioner, a representative of  
19 physicians' self-insurance appointed by the Insurance  
20 Commissioner, two representatives of hospitals appointed by  
21 the Florida Hospital Association, a representative of hospital  
22 insurance appointed by the Insurance Commissioner, a  
23 representative of hospital self-insurance appointed by the  
24 Insurance Commissioner, a representative of the osteopathic  
25 physicians' or podiatric physicians' ~~podiatrists'~~ insurance or  
26 self-insurance appointed by the Insurance Commissioner, and a  
27 representative of the general public appointed by the  
28 Insurance Commissioner. The board of governors shall, during  
29 the first meeting after June 30 of each year, choose one of  
30 its members to serve as chair of the board and another member  
31 to serve as vice chair of the board. The members of the board

1 shall be appointed to serve terms of 4 years, except that the  
2 initial appointments of a representative of the general public  
3 by the Insurance Commissioner, an attorney by The Florida Bar,  
4 a representative of physicians by the Florida Medical  
5 Association, and one of the two representatives of the Florida  
6 Hospital Association shall be for terms of 3 years;  
7 thereafter, such representatives shall be appointed for terms  
8 of 4 years. Subsequent to initial appointments for 4-year  
9 terms, the representative of the osteopathic physicians' or  
10 podiatric physicians'~~podiatrists'~~ insurance or self-insurance  
11 appointed by the Insurance Commissioner and the representative  
12 of hospital self-insurance appointed by the Insurance  
13 Commissioner shall be appointed for 2-year terms; thereafter,  
14 such representatives shall be appointed for terms of 4 years.  
15 Each appointed member may designate in writing to the chair an  
16 alternate to act in the member's absence or incapacity. A  
17 member of the board, or the member's alternate, may be  
18 reimbursed from the assets of the fund for expenses incurred  
19 by him or her as a member, or alternate member, of the board  
20 and for committee work, but he or she may not otherwise be  
21 compensated by the fund for his or her service as a board  
22 member or alternate.

23           2. There shall be no liability on the part of, and no  
24 cause of action of any nature shall arise against, the fund or  
25 its agents or employees, professional advisers or consultants,  
26 members of the board of governors or their alternates, or the  
27 Department of Insurance or its representatives for any action  
28 taken by them in the performance of their powers and duties  
29 pursuant to this section.

30           Section 250. Subsection (2) of section 766.110,  
31 Florida Statutes, is amended to read:

1           766.110 Liability of health care facilities.--  
2           (2) Every hospital licensed under chapter 395 may  
3 carry liability insurance or adequately insure itself in an  
4 amount of not less than \$1.5 million per claim, \$5 million  
5 annual aggregate to cover all medical injuries to patients  
6 resulting from negligent acts or omissions on the part of  
7 those members of its medical staff who are covered thereby in  
8 furtherance of the requirements of ss. 458.320 and 459.0085.  
9 Self-insurance coverage extended hereunder to a member of a  
10 hospital's medical staff meets the financial responsibility  
11 requirements of ss. 458.320 and 459.0085 if the physician's  
12 coverage limits are not less than the minimum limits  
13 established in ss. 458.320 and 459.0085 and the hospital is a  
14 verified trauma center as of July 1, 1990, that has extended  
15 self-insurance coverage continuously to members of its medical  
16 staff for activities both inside and outside of the hospital  
17 since January 1, 1987. Any insurer authorized to write  
18 casualty insurance may make available, but shall not be  
19 required to write, such coverage. The hospital may assess on  
20 an equitable and pro rata basis the following professional  
21 health care providers for a portion of the total hospital  
22 insurance cost for this coverage: physicians licensed under  
23 chapter 458, osteopathic physicians licensed under chapter  
24 459, podiatric physicians ~~podiatrists~~ licensed under chapter  
25 461, dentists licensed under chapter 466, and nurses licensed  
26 under chapter 464. The hospital may provide for a deductible  
27 amount to be applied against any individual health care  
28 provider found liable in a law suit in tort or for breach of  
29 contract. The legislative intent in providing for the  
30 deductible to be applied to individual health care providers  
31 found negligent or in breach of contract is to instill in each



1 individual health care provider the incentive to avoid the  
2 risk of injury to the fullest extent and ensure that the  
3 citizens of this state receive the highest quality health care  
4 obtainable.

5 Section 251. Paragraph (d) of subsection (3) of  
6 section 766.1115, Florida Statutes, is amended to read:

7 766.1115 Health care providers; creation of agency  
8 relationship with governmental contractors.--

9 (3) DEFINITIONS.--As used in this section, the term:

10 (d) "Health care provider" or "provider" means:

11 1. A birth center licensed under chapter 383.

12 2. An ambulatory surgical center licensed under  
13 chapter 395.

14 3. A hospital licensed under chapter 395.

15 4. A physician licensed, or physician assistant  
16 certified, under chapter 458.

17 5. An osteopathic physician licensed, or osteopathic  
18 physician assistant certified, under chapter 459.

19 6. A chiropractic physician licensed under chapter  
20 460.

21 7. A podiatric physician ~~podiatrist~~ licensed under  
22 chapter 461.

23 8. A registered nurse, nurse midwife, licensed  
24 practical nurse, or advanced registered nurse practitioner  
25 licensed or registered under chapter 464 or any facility which  
26 employs nurses licensed or registered under chapter 464 to  
27 supply all or part of the care delivered under this section.

28 9. A midwife licensed under chapter 467.

29 10. A health maintenance organization certificated  
30 under part I of chapter 641.

31

1           11. A health care professional association and its  
2 employees or a corporate medical group and its employees.

3           12. Any other medical facility the primary purpose of  
4 which is to deliver human medical diagnostic services or which  
5 delivers nonsurgical human medical treatment, and which  
6 includes an office maintained by a provider.

7           13. Any other health care professional, practitioner,  
8 provider, or facility under contract with a governmental  
9 contractor.

10  
11 The term includes any nonprofit corporation qualified as  
12 exempt from federal income taxation under s. 501(c) of the  
13 Internal Revenue Code which delivers health care services  
14 provided by licensed professionals listed in this paragraph,  
15 any federally funded community health center, and any  
16 volunteer corporation or volunteer health care provider that  
17 delivers health care services.

18           Section 252. Subsection (2) of section 817.234,  
19 Florida Statutes, is amended to read:

20           817.234 False and fraudulent insurance claims.--

21           (2) Any physician licensed under chapter 458,  
22 osteopathic physician licensed under chapter 459, chiropractic  
23 physician ~~chiropractor~~ licensed under chapter 460, or other  
24 practitioner licensed under the laws of this state who  
25 knowingly and willfully assists, conspires with, or urges any  
26 insured party to fraudulently violate any of the provisions of  
27 this section or part XI of chapter 627, or any person who, due  
28 to such assistance, conspiracy, or urging by said physician,  
29 osteopathic physician, chiropractic physician ~~chiropractor~~, or  
30 practitioner, knowingly and willfully benefits from the  
31 proceeds derived from the use of such fraud, is guilty of a

1 felony of the third degree, punishable as provided in s.  
2 775.082, s. 775.083, or s. 775.084. In the event that a  
3 physician, osteopathic physician, chiropractic physician  
4 ~~chiropractor~~, or practitioner is adjudicated guilty of a  
5 violation of this section, the Board of Medicine as set forth  
6 in chapter 458, the Board of Osteopathic Medicine as set forth  
7 in chapter 459, the Board of Chiropractic Medicine as set  
8 forth in chapter 460, or other appropriate licensing authority  
9 shall hold an administrative hearing to consider the  
10 imposition of administrative sanctions as provided by law  
11 against said physician, osteopathic physician, chiropractic  
12 physician ~~chiropractor~~, or practitioner.

13 Section 253. Subsection (18) of section 893.02,  
14 Florida Statutes, is amended to read:

15 893.02 Definitions.--The following words and phrases  
16 as used in this chapter shall have the following meanings,  
17 unless the context otherwise requires:

18 (18) "Practitioner" means a physician licensed  
19 pursuant to chapter 458, a dentist licensed pursuant to  
20 chapter 466, a veterinarian licensed pursuant to chapter 474,  
21 an osteopathic physician licensed pursuant to chapter 459, a  
22 naturopath licensed pursuant to chapter 462, or a podiatric  
23 physician ~~podiatrist~~ licensed pursuant to chapter 461,  
24 provided such practitioner holds a valid federal controlled  
25 substance registry number.

26 Section 254. The catchline and subsection (1) of  
27 section 945.047, Florida Statutes, are amended to read:

28 945.047 Licensing requirements for physicians,  
29 osteopathic physicians, and chiropractic physicians  
30 ~~chiropractors~~ employed by the department.--

31

1           (1) The Department of Corrections shall employ only  
2 physicians, osteopathic physicians, or chiropractic physicians  
3 holding licenses in good standing to practice medicine in this  
4 state, except that, by October 1, 1980, no more than 10  
5 percent of the total number of such physicians employed by the  
6 department may be exempted from the provisions of this  
7 subsection. Each such exempted physician shall hold a valid  
8 license to practice medicine, osteopathic medicine, or  
9 chiropractic medicine in another state and shall have been  
10 certified by the appropriate board as eligible for admission  
11 for examination in this state under chapter 458, chapter 459,  
12 or chapter 460, as applicable. The appropriate board shall not  
13 certify as eligible for admission for examination any person  
14 who has been adjudged unqualified or guilty of any of the acts  
15 enumerated in the disciplinary provisions contained in chapter  
16 458, chapter 459, or chapter 460, as applicable.

17           Section 255. Paragraph (a) of subsection (39) of  
18 section 984.03, Florida Statutes, is amended to read:

19           984.03 Definitions.--When used in this chapter, the  
20 term:

21           (39) "Neglect" occurs when the parent or legal  
22 custodian of a child or, in the absence of a parent or legal  
23 custodian, the person primarily responsible for the child's  
24 welfare deprives a child of, or allows a child to be deprived  
25 of, necessary food, clothing, shelter, or medical treatment or  
26 permits a child to live in an environment when such  
27 deprivation or environment causes the child's physical,  
28 mental, or emotional health to be significantly impaired or to  
29 be in danger of being significantly impaired. The foregoing  
30 circumstances shall not be considered neglect if caused  
31 primarily by financial inability unless actual services for

1 relief have been offered to and rejected by such person. A  
2 parent or guardian legitimately practicing religious beliefs  
3 in accordance with a recognized church or religious  
4 organization who thereby does not provide specific medical  
5 treatment for a child shall not, for that reason alone, be  
6 considered a negligent parent or guardian; however, such an  
7 exception does not preclude a court from ordering the  
8 following services to be provided, when the health of the  
9 child so requires:

10 (a) Medical services from a licensed physician,  
11 dentist, optometrist, podiatric physician ~~podiatrist~~, or other  
12 qualified health care provider; or

13 (b) Treatment by a duly accredited practitioner who  
14 relies solely on spiritual means for healing in accordance  
15 with the tenets and practices of a well-recognized church or  
16 religious organization.

17 Section 256. This act shall take effect July 1 of the  
18 year in which enacted.

19  
20 \*\*\*\*\*

21 HOUSE SUMMARY

22 Provides technical corrections and changes to various  
23 provisions of law relating to regulation of professions.  
24 Revises probable cause provisions and eliminates or  
25 revises obsolete references. Authorizes the Department of  
26 Health and regulatory boards thereunder to refuse to  
27 issue an initial license under circumstances relating to  
28 ongoing investigations or prosecutions. Provides for  
29 certain alternative continuing education credit. Requires  
30 certain applicants for restricted licensure as a  
31 physician to submit a set of fingerprints. Provides the  
Department of Health rulemaking authority with respect to  
examinations. Corrects references, cross references,  
definitions, and terminology relating to authority and  
jurisdiction of the Department of Health. Corrects cross  
references relating to the Health Care Trust Fund.  
Revises terminology relating to chiropractic and  
podiatric medicine. Retitles chapters 460 and 461, F.S.,  
to conform. See bill for details.